

THINK GLOBAL ACT EUROPEAN

European Think Tanks Contribution
to the Trio of the French, Czech and Swedish
Presidencies of the Union

Fondation pour l'innovation politique
Notre Europe

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PREFACE

From July 2008, France, the Czech Republic and Sweden will form the next trio of European Union presidencies. If ratified, the Treaty of Lisbon will create a stable European Council presidency and reinforce the role of the Trio at the head of sectoral Councils of Ministers in order to assure greater continuity in the institutions' action.

The ideas of Europe's think tanks are increasingly seen as an essential contribution in defining the EU's agenda. The strength of this thinking lies also in the ability of think tanks to work together and to develop intellectually fruitful ideas among themselves.

In this context, *Notre Europe* and the *Fondation pour l'innovation politique* decided to bring together a group of European think tanks in order to produce ideas and proposals which might assist the next Trio's preparation, and in this way help with the implementation of the new treaty.

The project, entitled *Think Global – Act European*, has mobilized thirteen think tanks and received the support of the French, Czech and Swedish governments. The think tanks chose to work together in the spirit of the EU's motto, "United in diversity".

Clearly it is tempting for a member-state government to declare that its presidency takes place at a key moment for the European project. In the case of the next trio however, this claim does not seem exaggerated.

After the celebrations for the 50th anniversary of the Treaty of Rome and the 60th anniversary of the Hague Congress, there is a widely-shared feeling that a new phase of the European project is beginning. If the Treaty of Lisbon succeeds in unblocking the institutional machinery, the Trio Presidencies will need to give meaning and content to the European project represented by these institutions. Beyond this medium- and long-term thinking, a glance at the European agenda for the next 18 months shows how important short-term considerations – mixing internal and external challenges – will be.

The implementation of the Treaty of Lisbon could produce very different outcomes depending on how much political will is invested. 2009 will see the campaign for the European elections and the renewal of the European Commission; at the same time Europeans will be asked to prepare the post-2013 reform of the budget and review of the Union policies. The Lisbon Strategy will expire in 2010 and the Kyoto Protocol in 2012; simultaneously, a new impetus must be found in the quest to address two ambitious EU objectives – the question of climate change and energy security, and the need to boost the EU's competitiveness without damaging its strong social model.

At the beginning of the 21st century the EU is entering a period of reconstruction. After a first phase of internal development and of the extension of Europe's model by means

of enlargement, this new phase is one for consolidating existing policies; for launching initiatives which might create new European solidarity; and for moving forward onto the world stage through the creation of a new, inspirational common project.

Tommaso Padoa-Schioppa, President of Notre Europe

Jean-Claude Paye, President of the Fondation pour l'innovation politique

This introductory summary reflects the proposals in the contributions of the 13 think tanks but is not written collectively and remains the sole responsibility of its authors.

THINK GLOBAL – ACT EUROPEAN: KEY ISSUES

The European think tank group created at the end of 2007 chose the motto, “Think global, Act European.” This general concept, coupled with recommendations for a short-term agenda, was aimed at reflecting the approach that the group wished to see the Trio, or Troika,¹ adopt in its mission starting in July 2008.

The aim of this troika – which will bring together the French, Czech and Swedish Presidencies of the EU Council – is to make progress during 2008-09 with the current dossiers of the EU institutions.

Yet we find ourselves at a pivotal moment in the history of European integration, one which the new trio must judge correctly if it is to help make the EU a global actor.

In a context of profound international transformation and new challenges, the changes brought about by the Treaty of Lisbon demand resolute European action and the reframing of sectoral policies as parts of a wider perspective.

The new troika will need to convince occasionally disoriented European citizens of the relevance, the urgency and the coherence of an overarching European project capable of being carried to the international level.

I – THINK GLOBAL

An overarching project to respond to global challenges

For 60 years now Europeans have been mobilized primarily by the internal challenge to promote integration. While it is true that the single market and the enlargement process are not yet completed, the initial objectives of European integration have been largely

1. Since the Treaty of Amsterdam, the term “Troika” has generally been used to designate the trio composed of the Foreign Affairs Minister of the Member State holding the Presidency of the Council of the European Union, the Secretary-General/High Representative for the common foreign and security policy and the European Commissioner in charge of external relations and European neighbourhood policy. But the term “troika” has also been referring to the trio of member states holding successively the Presidency of the EU Council, which has since 2007 (with the trio composed by Germany, Portugal and Slovenia) reinforced its coordination by working together on a common agenda for a period of 18 months.

met: 27 countries and nearly 500 million individuals benefit from peace, democracy and an increasing standard of living.

During this half-century, a profoundly changed international context and the increasing entanglement of internal and external issues have created new challenges for the Union. The boundaries which separated the Union's internal and external policies are more permeable than ever. Europe's citizens, noticing the growing impact on their environment of global phenomena, need their political representatives to give meaning to tomorrow's Europe and to mark out a path for the EU in a globalised world.

Faced with growing global competition and the emergence of powerful new economic, political and military powers, the EU's competitiveness relies mainly on its capacity to innovate. While the number of illegal immigrants on EU borders continues to grow, and member states – confronted with an aging population – are already experiencing labour shortages in certain sectors, Europeans need to adapt and coordinate their migratory policies. With the increased threats of terrorism and disease pandemics, the security issue is becoming more diffuse and requires better coordination between member states.

Access to natural resources, particularly energy resources, is more than ever an aspect of global competition. Climate change in itself is a formidable challenge which Europeans have met by setting the ambitious "20 20 by 2020" goal² – but it is a challenge which calls for a clear strategy, in order to maintain the competitiveness of European business. The droughts and food shortages that are threatening developing countries are likely to create new areas of instability that could further require the EU's own stabilisation efforts, especially if and when the US is unable or unwilling to act.

The emergence of new powers such as Brazil, Russia, India and China – often known as the BRICs – is affecting international equilibria and impacting also on the relative influence of both the EU and the US on the world stage. This obliges the EU to strengthen its role as a stabiliser and regulator on the international scene. It is now Europe's turn to commit itself to defending global public goods such as sustainable development. This is not a matter of pure altruism; such a new foreign policy is in Europeans' interest.

The Union's capacity to adapt to this new international context and to anticipate future changes nonetheless depends to a great extent upon the member states' resolve to advance a common interest that they can present to the rest of the world, rather than a series of more or less compatible national interests. It is the affirmation of this European solidarity and confidence in the role that the EU can play in the world which will allow Europe to

2. The climate change and energy package adopted by the European Commission on 23 January 2008 aims to achieve by 2020 a 20% reduction in greenhouse gas emissions (compared to 1990 emissions) and a 20% renewable energy share in the EU's energy consumption. This latter target includes a share of energy from renewable sources in transport in 2020 of at least 10%.

remain open to globalisation, to reap its benefits and to contribute to the regulation which can attenuate its negative effects.

II – ACT EUROPEAN

Resolute European action to make the EU a global player

Having taken the measure of the global challenges and the benefits of European cooperation in these areas, Europeans must formulate clear and committed responses wherever European action reveals itself indispensable. This action today corresponds to at least four imperatives. First of all it is necessary to consolidate and revisit those projects which appear wrapped up but which in reality are not producing optimal results (in particular the single market, the European Monetary Union – EMU – and the Common Agriculture Policy (CAP)). In addition, the time has come to initiate new forms of European solidarity in response to the colossal challenges of climate change, energy supply and immigration management – and to gain the means to act through an ambitious European budget. Yet all these initiatives will fail to mobilise citizens as long as the European project does not rest on more solidly democratic foundations. Finally, internal and external objectives must be in coherence and well coordinated in order to project the EU's normative power beyond Europe's frontiers and to increase the EU's influence in the international arena.

Consolidating and revisiting the *acquis*

Defining a new overarching project for the Union does not imply turning one's back on the gains of 60 years of integration; the strength of these *acquis* must remain a motor of action. The troika of French, Czech and Swedish Presidencies must revisit several areas in order to consolidate the *acquis*. In particular, the contributions of this report urge the troika to:

■ **Pursue the completion of the single market, specifically by the creation of a European energy market.**

Taking account of the positive effects that internal-market reforms can produce in connected domains – and of the Commission's role as motor – the troika should concentrate first on completing the internal market. It should also make every effort to create a genuine energy market, for which a precondition is the connection of Europe's energy-transport networks.

■ **Give new substance to the Economic and Monetary Union, and in priority its external representation.**

Market economic heterogeneity persists between member states despite the Economic and Monetary Union, and flaws in economic governance have not been addressed by the

Treaty of Lisbon. These facts should encourage the troika to look for pragmatic solutions, on the margins of the current institutional setup and emphasising the political angle, in order substantially to improve the EU's economic governance. A significant first act would be to define the practical details of the EMU's external representation in international fora such as the IMF, G7/G8 and the World Bank, and with respect to important partners such as the United States and China.

■ **Instigate a thoroughgoing debate, without taboos, on the common agricultural policy.**

With the discussions on its "health check" and the review of the European budget, the CAP is approaching an historic turning point – in an unprecedented context, due to the growth in global food and non-food demand. Not only will it be necessary to produce more food despite increased competition and with less agro-input (water, soil, fertilisers and pesticides) for environmental reasons, but it will be important not to lose sight of the domestic requirements of territorial cohesion. The three presidencies must rise above their national preferences in order successfully to conclude what promises to be rigorous negotiation. Instead of focusing on the budgetary aspect, the troika should invite member states to ask themselves what model of food and agriculture they would like for Europe and what place agriculture should take in the balance of land use.

Initiating new European solidarity

Competitiveness, climate change and immigration are not new challenges but they have taken on an entirely different aspect in a globalised world. Many of the political, economic and social conflicts of the 21st century will hinge on these issues. Several opinion surveys have indicated that European citizens expect the EU to play a more active regulatory role in these areas. Beyond better coordination of national policies, new mechanisms of solidarity among Europeans are necessary. This spirit of solidarity should also be one of the unifying themes of the European budget reform. In particular, the report's contributions propose to:

■ **Give teeth to the Strategy of Lisbon in order to move towards the creation of a genuine space of research and development.**

The task of mapping out a new Strategy for 2010, which falls to the new troika, must start with an analysis of the competitiveness challenges confronting Europeans – challenges with which Europeans are looking to reconcile with the demands of sustainable development and the defence of the continent's social model. Lisbon III must be founded on clear priorities for action. The priority given to research and innovation specifically implies new measures to recognise and establish a 5th freedom: that of knowledge. Beyond this bare principle, the free movement of researchers within the EU must become a reality in order to encourage the emergence of a common research space and to attract researchers from third countries.

In addition, objectives might be differentiated among countries in order to take account of persistent variations in economic conditions. To make this strategy more efficient,

member states should be compensated for genuine political efforts by means of financial and political incentives complementary to the coordination mechanisms.

And finally, the UE should not only target the “winners” of globalisation through Research and Development investment but also the “losers”. The recent creation of the European Globalisation Adjustment Fund is going in the right direction, trying to initiate a new form of solidarity between Europeans. But its budget and the efficiency of this new instrument needs to be increased and the UE needs a social policy to, among other reasons developed in these report, compensate globalisation adaptation efforts.

■ **Define an action plan to achieve the “20 20 by 2020” climate-change objectives.**

In order for the EU to achieve its declared aims and maintain its position at the head of international negotiations (talks on the agreement that succeeds the Kyoto Treaty will begin at the end of 2009), the TGAE Group recommends that the troika focus on measures to reduce greenhouse emissions and on the smooth functioning of the EU Emissions Trading Scheme by setting demanding goals and possibly also establishing new independent bodies to monitor their implementation. The troika must also strive to rally the greatest possible number of third-party states, in particular the United States, by giving them an incentive to adopt restricting measures on climate-related issues. Furthermore, action must be taken on the objectives concerning energy efficiency and renewable energy. European enterprises need clear indication of a European strategy in tackling climate change in order to adapt their future investments.

■ **Develop a broad approach to legal and illegal immigration.**

Defining a common immigration policy is one of the areas in which TGAE’s think tanks have identified the greatest dissension, reflecting the still lively debate between the countries most exposed to waves of illegal immigration and those that have experienced the entry of immigrants in transit from other member states. In dealing with the Union’s demographic decline, immigration is often argued to be a key resource to compensate for labour shortages. But requirements – qualitative as well as quantitative – differ from country to country. Nevertheless, for member states to participate in the global competition to attract skilled workers, an European approach would be helpful. Similarly, greater European coordination on illegal immigration in a Europe without internal border controls within the Schengen area. Failure to address the problem of illegal immigration at the European level would risk undermining the credibility of immigration policies and adversely affects the right to asylum and respect of basic human rights.

The TGAE group recommends that care be taken to maintain a balance between border controls, humanitarian standards and a European framework for immigrant regularisations. Legal means of migration such as daily commuting should be developed. However, mobility partnerships are not a miracle cure for the problem of illegal migration. Better integration of migrants must be accompanied by a public debate on the necessity,

management and impact of future immigration influxes, in order to prevent the social tensions that might be caused by the arrival of new migrants in member states. Finally, the troika should put in place the foundations of a common policy to draw in qualified immigrants. In addition to the Blue Card approach, European universities need to become more attractive so as to attract top talent to Europe early in life.

■ **Draw up an ambitious budget reform oriented towards the financing of European common goods.**

In 2008-2009, the EU will need to initiate the debate on the post-2013 budget. This debate should reach its moment of maximum tension around 2011, when the hard numbers of the contributions and expenditures will be put on the table. However, an initial exchange on the principles that should dominate future budgetary reform, and on the policy priorities that should guide it, is desirable in order to raise the level of the negotiations. The TGAE Group thinks that a substantial reform of the European budget is necessary and that a comprehensive approach – including the issue of expenditures, revenues and procedures – should be taken. Budgetary negotiation should not be limited to purely financial aspects; it is also, and must be, the expression of political ambition, of a common future shared by member states and by European citizens. The involvement of the European Parliament, strengthened by the expansion of its budgetary power, is essential in this respect.

In particular, the TGAE Group recommends that the troika devise a negotiation method that will make it possible to avoid the use of an analytical grid focused on the issue of net balances. Aside from its often erroneous nature, this obscures the essential question of how European “public goods” are to be financed and results in a minimally adequate and static budget. While the budget’s content remains the most visible and clearly the most fundamental part of the negotiations, several contributions also insist on the necessity of opening the debate on the revenue component. Such a move would raise the possibility of new resources, whether as contributions cleared of any correction and based upon national GDPs, or as new EU own resources; naturally, the democratic component of the resource mechanism must not be neglected.

Strengthening European democracy

Revisiting the *acquis* and initiating new forms of solidarity supposes not only that the Treaty of Lisbon is ratified by all member states but that the next trio of presidencies will resolutely commit itself to pursuing the “Europe of results” desired by the European Commission – a Europe that moves forward with a certain number of specific, concrete policies which demonstrate the relevancy of the European project. This approach is no doubt legitimate. After more than 10 years of institutional tangles, it is normal and healthy for European institutions to use the Lisbon framework as a means to make progress in priority intervention areas.

Nonetheless, there is a pitfall that should be avoided at all costs in this commitment to a “Europe of results.” Besides the indispensable overarching project which needs to be

developed, the outlines of which were suggested above, it is imperative not to widen the persistent gap between a project advocated by elites and those ideas espoused by populations – which sometimes find it difficult to keep up with the pace of European integration and in particular with the EU's enlargements. The authors of these recommendations stress two facts that it would be risky to ignore.

First, Eurobarometer surveys show that support for European integration is still vacillating – or at least changing – despite some recent improvement, and above all that only one-third of those surveyed feel that their voices are heard in the EU. Second, Euroscepticism is taking increasingly diverse forms including, alongside the more traditional sovereignist demands, a rise in the socially-rooted variety that recent decisions by the European Court of Justice could accentuate.³ Social fears combined with the perception of a highly unsettled – and to some extent uncontrollable – global environment could lead to a strengthening of populist movements within the Union. In this perspective, the think tanks' contributions include the following recommendations for the troika:

■ **Make the 2009 European elections an event of genuine significance, and politicise the debate.**

Here the first casualty could be the ratification process, which it is important not to consider as a given. But, in the opinion of all the TGAE Group's think tanks, the outcome of the June 2009 European elections is of critical importance. It would be regrettable if, in the race to achieve results and caught up in the implementation of the Treaty of Lisbon and other sectoral policy deadlines, the Union were to fail to mobilise enough voters to reverse the decline in voter participation – and thereby fail to seize the opportunity to demonstrate the Union's democratic vigour in the post-Lisbon era. The expansion of instruments of representative democracy, such as the extension of the co-decision procedure or the "orange card" control mechanism for national parliaments provided for under the Treaty of Lisbon, should provide an opportunity to reinvigorate democratic practice within the Union.

Similarly, it is time for the EU openly to assume, and promote, the gradual politicisation of its debates which – without actually conforming to this or that particular national model, and while preserving the strength of the European consensus tradition – can help to clarify citizens' political choices and in this way make them more familiar with how the EU operates. The TGAE Group notably suggests that the troika encourages European political parties to conduct campaigns before the European elections at a common Europe-wide level and to present a candidate for the position of president of the European Commission.

3. Asked to decide on a question of interpretation relating to the rights of seconded workers, the Court of Justice seems to have favoured workers' freedom of movement (and therefore the rules of the single market) over the right of trade unions to uphold national collective agreements on salaries (as a defence against "social dumping"). In the third German decision, the Court favoured the single-market rules over those of local public contracts (which respect national collective agreements).

■ **Give priority to those tools which might create genuine Europe-wide deliberation.**

The Commission is launching a new stage in its “Plan D” at a time when the number of experiments in citizen dialogue and consultation – both in the member states and at the European level – continues to grow. It would be useful to take stock of what might be learned about European questions from these first initiatives, and to strengthen those instruments of participatory democracy which have the best chance of creating the conditions for genuine Europe-wide deliberation. An independent body could be established – a sort of observatory of European public opinion and deliberative democracy – with the task of recording these experiments, noting best practices and giving a better scientific foundation to this sphere of activity.

Projecting the Union’s normative strength in the world

Europe’s problems stem not so much from lack of power as from fragmentation. Europe is a superpower: its GDP and population exceed those of the United States, and its total defence spending surpasses that of all other countries except the United States. The EU has everything it needs to pursue an active internationalisation policy.

The EU must move from a sectoral-policy approach to a more integrated approach that will allow it to become a global actor capable of projecting its normative strength in the world. The Union must give itself the means to help shape a world order inspired by European values. Clearly this means allowing people beyond the EU’s borders to benefit from these values. But above all it means preserving the European model.

To reach this objective and to act on the imperative to speak with single voice on the world stage, the TGAE group asks the troika to:

■ **Rapidly implement (once the treaty is adopted) the measures stipulated by Lisbon concerning the common external policy, starting with the European External Action Service.**

This service must be connected to issues of internal security by the posting of a representative at the new Internal Security Committee; care must be taken to send only the most able diplomats to the EEAS. Given the workload of the High Representative, he should be assisted by two deputies at the Council and the Commission. The division of roles between the Commission president, the Council president and the High Representative for foreign policy must be better clarified.

■ **Work towards a better coordination of all foreign-policy instruments.**

The establishment of the post of High Representative is the moment to create new synergies between foreign policies which encompass foreign trade, neighbourhood policy and development – and between these and environment policy, which is a determining factor of competitiveness for European business. In particular, developing the external

aspect of the Lisbon Strategy would allow an EU external policy to be defined in which competitiveness is better catered for.

■ **Ensure that the normative principles which have guided the European project up till now – including democracy, the rule of law, and sustainable development – prevail in the EU's external relations**, in a transversal way and across all areas of action. In this manner a clear line can be established in European action.

■ **Give the EU real military means**, starting with an effort at mutualising and rationalising military and civil resources, and at sharing tasks more fairly between member states and between the EU and NATO. This will strengthen the EU's credibility and intervention capacity in the international arena.

■ **Maintain and reinforce the EU's strategic partnership with the United States**, by making the most of the change of American administration in order to find common grounds of agreement on security-related issues – relating to nuclear proliferation, terrorism, disease pandemics, humanitarian crises and the Middle East conflict. At the same time it is important to develop and implement a common approach to the relationship with China and Russia.

III – THE COUNCIL PRESIDENCY IN THE POST-LISBON ERA

Analysts and the media have often spoken of a “Presidency of the EU” when referring to the Presidency of the EU Council, which is filled by one member state for a period of six months in a system of rotation by country. This linguistic shortcut will now need to be used with care, because the Treaty of Lisbon has profoundly modified the EU's governance.

The treaty creates a stable presidency (two and a half years, renewable once) of the European Council – which comprises Heads of State and Government – together with a High Representative for foreign and security policy who will be the stable president of the Foreign Affairs Council. Other sectoral Councils of Ministers will retain their six-monthly rotating presidencies, but in this new context the treaty underscores the importance of the 18-month common program established by groups of three successive presidencies (trios or troikas).

Assuming the Treaty of Lisbon enters into force in 2009, the next trio of presidencies – French, Czech and Swedish – will therefore be the first under the new arrangements. To ensure the best possible transition, the contributions of the TGAE report have identified several recommendations for this troika:

■ **Choose a genuinely European figure for the position of stable president of the European Council.**

Creating a stable presidency is a positive move in terms of “Europeanisation” (since the choice of the stable president will be made according to the personality of the individual rather than by nationality), and in terms of the coherence of what is by definition the most intergovernmental institution in the Union’s institutional architecture. But it is also fuelling the fears of those who believe that the European Council has been strengthened to the detriment of the Commission and the defence of the common European interest that the Commission stands for. The success of the new formula for a stable Council presidency will depend above all on the capacity of the presidency to respect the balance between the three institutions as defined by the treaty.

Much will also depend on the choice of the personality to fill the position. It is imperative that he or she be fully respected by all member states, and capable both of showing authority vis-à-vis the exterior and of building consensus inside the EU. A few contributions – but not all of them – also recommend that the new president be chosen from the “heart” of current European integration – that is, from a country which is a member both of the euro zone and Schengen.

■ **Consider the citizen’s need to understand the system of governance, and avoid any agreement which does not take account of the result of the European elections.**

It would be a pity if the reduced visibility of the six-monthly rotating Council presidency under the new system were to reduce the potential that this institution has shown for mobilising populations within member states. These presidencies are often an occasion to raise awareness of the importance of European-wide policies.

The troika must also take care to ensure that the European Council does not agree to any upstream intergovernmental deal concerning the nominations of the Council president, the Commission president and the High Representative. The appointment of the new President of the Commission should depend upon the outcome of the European elections of June 2009. More than ever these elections need a genuine political agenda in order to mobilise voters, since turnout has been declining since 1979.

■ **Demonstrate that coordination between three presidencies is both possible and useful.**

The importance of close collaboration between the three countries of the troika around a common 18-month agenda is increased by the need to coordinate the work of the stable president of the European Council with that of the rotating presidency of the Councils of Ministers.⁴

4. Declaration, article 16 paragraph 9 of the Treaty on European Union, concerning the decision of the European Council relating to the functioning of the Council presidency.

It is with this evolution in mind that, in the spring of 2006, the member states decided to extend the Council of the EU's work programme term to 18 months to allow all European policies to benefit from improved coordination between three successive six-month presidencies. The first common programme to be established on this basis, between Germany, Portugal and Slovenia, should be a useful example for the new troika.

In addition to the challenge of coordinating the three six-month agendas, the new troika will also have to carry out the smoothest transition possible between the preceding and subsequent presidencies. Lastly – and perhaps most importantly – it will need to uphold co-decision and the so-called Community method by working closely with the European Commission and the European Parliament; the latter will see its co-decision power extended under the new treaty and will therefore need to be kept informed of the progress being made on the various projects.

This new troika arrives at a special, and in many ways exceptional, moment in the history of European integration. This dictates that the presidencies of the Council must approach their mission with even more humility than usual, and in a spirit of constructive collaboration. The role of the presidency of the Council is, first and foremost, that of a mediator and a facilitator of compromise.

In this respect this troika is of particular interest, because France, the Czech Republic and Sweden are three countries that exemplify European diversity. Beyond their more and less long-term memberships of the Union and the specificity of each of their socio-economic models, these three member states have taken different positions on issues as varied as immigration requirements, openness to free trade, and even the hierarchy of the EU's new priorities.

The need to encourage a genuine effort of coordination between the three successive presidencies from the very start of the new troika's mandate will therefore be decisive in conducting negotiations among the 27 member states.

The TGAE group hopes that the detailed contributions presented in the report – with their convergences and divergences – will help strengthen this coordination between the members of the trio, between member states, and between the Council and other European institutions. The EU's successful entry into the post-Lisbon era, and the construction of a newly inspiring European project, depend on it.

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PART I

TREATY OF LISBON, DEMOCRACY, BUDGET



PART I – TREATY OF LISBON, DEMOCRACY, BUDGET

The next Trio Presidencies will take place in a shifting context and in a decisive period for the future of European integration. The implementation of the Treaty of Lisbon, the 2009 European Parliament elections and the European budget review constitute unique opportunities to synchronise the Union's institutional, democratic and budgetary tools with its declared ambitions concerning European policy development.

THE TREATY OF LISBON: RATIFICATION AND IMPLEMENTATION

The views of think tanks on the Treaty of Lisbon are unanimous: this Treaty, if ratified (which is not certain in today's constantly evolving political environment) will have a significant impact on the *modus operandi* of the European institutions. They call on the Trio Presidency to prepare carefully for the transition into the "post-Lisbon era". Not surprisingly, the authors focus primarily on who will fill the new jobs created by the Treaty (the permanent President of the European Council and the High Representative for the Common Foreign and Security Policy) and on the need to find the right balance to preserve the strength of the Community method. But they also focus on the European External Action Service, on the increased role of the European Parliament and the potential politicisation of the process to appoint the President of the European Commission.

Adopting a highly pragmatic approach, while acknowledging the importance of underlying principles, think tanks have made the following recommendations to the Trio Presidencies:

- To monitor closely the ratification process (*Eliamep*), to outline different scenarios and anticipate the consequences (*Europeum*), including a scenario of difficult ratification in the context of social unrest potentially flowing from decisions by the European Court of Justice in the field of labour market relations (*SIEPS*).

- To negotiate with the Commission and the European Parliament a sort of "code of conduct" (*Europeum*), an inter-institutional agreement to define the principles that should prevail not just in the choice of individuals to fill key posts, but also in the way these new functions will be incorporated into the existing institutional framework (impact on COREPER, working groups, rotating Presidencies, role of the General Affairs Council, conciliation of co-decision, etc.) (*SIEPS*, *DemosEuropa*).

- To ensure that there is strong coordination between the three presidencies and that they work hand in hand with the Commission and the European Parliament, whose powers will be considerably augmented both in legislative and in budgetary terms. This collaboration will be indispensable for the effective operation of new decision-making

mechanisms and above all: the “Orange Card” system for national parliaments, the extension of co-decision and of the qualified majority (notably to the domain of justice and home affairs), the revised budgetary procedure and the mechanisms planned in the domain of the European Security and Defence Policy such as permanent structured cooperation (*Europeum, DemosEuropa, SIEPS, Eliamep*).

■ To select a President of the European Council who does not become, in any form whatsoever, a rival to the President of the European Commission. The Council President should be a prominent European figure respected by all member states, capable of having authority *vis-à-vis* the exterior and, at the same time, of building a consensus within the community. This implies someone from the heart of the current European integration process, that is from a member of the euro-zone and of the Schengen Agreement (*CEPS, Eliamep, Notre Europe*).

DEMOCRACY AND LEGITIMACY IN EUROPE

After the French and Dutch rejections of the European Constitution in the referenda of spring 2005 and the resulting stalemate, the member states have all, except for Ireland, chosen to ratify the Treaty of Lisbon in their respective parliaments. Although ratification by elected representatives is just as democratic as a referendum, one serious disadvantage is that public debate on European issues has once again become inaudible. Moreover, the new Treaty has not, unlike its predecessor, met the goal of simplifying existing texts or making them more readable.

Those think-tanks that have examined the question of EU democracy warn of the dangers of an *in-camera* policy that underestimates the distance between European citizens and decision makers and the depth of ongoing Euroscepticism, which is taking increasingly, varied forms. Therefore the Trio Presidency must seek ways of enhancing the democratic processes at the heart of the Union including by taking full advantage of the early results of the citizen consultation initiatives implemented in the framework of the European Commission’s “Plan D”; of the new democratic tools provided for by the Treaty of Lisbon and of the perspective of the European Elections in 2009. Indeed, in these areas, the authors make a number of concrete suggestions:

■ The European elections in June 2009 will be crucial. In spite of the growing status of the European Parliament within the EU’s institutional structure, voter turnout at European Parliamentary elections has been declining. The issues relevant to this election must be clearer to voters. That is why it is important to respect the new method for appointing the President of the European Commission, an appointment that must depend on the results of the elections. Likewise, the High Representative should be newly-appointed with the rest of the European Commission in the autumn of 2009. A prior intergovernmental agreement on the trio of Presidents of the European Council and of the European

Commission and the High Representative would significantly detract from the democratic virtues of the new measures (*SIEPS, CEPS, Notre Europe, DemosEuropa*).

■ Raising the significance of the European elections to voters also carries with it the idea that the EU has entered into a phase of its development in which the issues at stake will be more politicised. While the EU should not simply adopt one or another national political system of politicisation, it is today abundantly clear to all that the EU system needs politics, faces and debates and that European citizens need information and clearly presented choices. European political parties will have a major role to play. They must present common political platforms and candidates for the job of President of the Commission (*Eliamep, Notre Europe*).

■ Thought should be focused on the best ways to use and inform people about the tools of representative and participatory democracy at the European level. With the implementation of the Treaty of Lisbon, the means for enhancing the EU's democratic mechanisms will be numerous, including the development and magnification of the notion of European citizenship, the extension of the European Parliament's powers and an augmentation of the role of national parliaments within the EU sphere (*Europeum, Notre Europe*). The time has also come to evaluate the different experiments of "citizen dialogue". Not all the mechanisms have the same capacity to elicit a genuine deliberation on a strict and fair basis. Neither is the same strategy likely to be effective across all member states (*DIIS*). An inter-institutional agreement should propose the creation of an independent Observatory of European public opinion and of deliberative democracy (*Notre Europe*).

BUDGETARY REVIEW AND POLITICAL PRIORITIES

No-one is currently expecting the review of the European budget launched by the Commission in the autumn of last year to generate major changes in the 2007-2013 program. However, the opportunity should not be wasted to lay the foundations of a proactive and far-reaching reform of the budget affecting its income, its expenditure and its procedures. In fact, this message is unanimously addressed to the Trio Presidencies by all the experts who are highly critical of past budget negotiations and of the disappointing and inadequate results obtained in the light of Europe's new needs.

The Trio should therefore make every effort during the 18 months of its tenure to foster a climate of broad debate leading to ambitious solutions regarding not only the contents of the budget, but also its negotiation and adoption procedures. The experts' recommendations essentially fall into the following two categories:

■ With regard to negotiating methods, concentration on net balances is widely criticised, not just because it distracts negotiators from the real issues at stake, which is the financing of European "common goods", but also because it leads to a minimalist and

static budget. The search for a solution to avoid this pitfall deserves to be treated as an objective in itself.

■ With the Treaty of Lisbon ratified, the European Parliament should intervene more in the final negotiations (*EPC*) but, in order to completely reshuffle the cards at a political level, the question of the Union's own resources must be entirely reviewed. The conclusions drawn from such a debate are bound to differ: some consider the current level of the EU budget as a ceiling (*CEPS*), others as a floor that can be raised by finding new resources: a contribution based on unadjusted national GDP or the creation of new taxes (*Notre Europe, DemosEuropa*). Beyond the economic, accounting and sometimes ideological considerations, it is important to consider the democratic mechanisms for the allocation of resources and the need for a direct link with citizens in order to legitimise the process of European construction.

The budget's inertia constitutes the second major drawback that is unanimously criticised. It is the result of the increase in the number of national negotiators, of the monopoly exercised behind closed doors by the financial administrators at the European Council and of the conservative influence of certain players and sectors that benefit from the European budget. While the Treaty of Lisbon will enhance the democratisation of the procedure with an increased role for the European Parliament, the conservative tendency will be difficult to counter. Synchronisation with the political cycle, although a laudable project, will not be easy to implement (*EPC, Notre Europe*). It will therefore be necessary to go further to give the European budget a real capacity for self-renewal or "re-profiling" (*SIEPS*) by revising the entire budgetary process: its political initiation, its decisions, the implementation of the budget, the possibility for adaptation and for cancellation.

The budget's contents constitute the most visible elements of the debate, attracting the sharpest critiques, particularly with regard to the Common Agricultural Policy (CAP) and support for the Lisbon Strategy. Indeed, with respect to the latter topic, the Commission has decided to sharpen its focus by raising the question to all participants of the adequacy of current EU spending when measured against its broader political agenda.

Generally speaking, this approach is appreciated because the negotiation of the budget is not simply a financial problem; it is also and above all an expression of a political ambition, of a common future shared by member states and European citizens. Therefore, the budget should correspond to the EU's political priorities and should continue to counter-balance the effects of integration in the knowledge that the impacts of European policies are not the same everywhere (*DemosEuropa*).

■ There is unanimity in the view that EU spending must be re-examined through a sharper lens in order to focus the European budget on the production of European "common goods". In practice, this means finding the community value in each major policy initiative. It also implies adopting a consolidated vertical analysis of expenditure, integrating

all national and regional spending, with a simultaneous horizontal analysis that takes into account sector interactions, trans-national synergies and the leverage effect that EU spending generates by attracting private sector investment. The contribution of the European Union should be interpreted dynamically, in line with a medium and long-term vision.

■ The convergence of opinions stops there, since the different national points of view, the political options and the diverse interpretations of the link binding member states to the EU generate recommendations that are sometimes diametrically opposed. For some, the opposition between old and new policies has no particular significance (*Notre Europe*) while for others Europe must urgently face and adapt to new challenges relating to the environment and internal and external security (*SIEPS, CEPS*) and must jettison all vestiges of the past. For some, the policy of cohesion is not just an expression of solidarity but is also aimed at strengthening the capacity of member states to conform to the full range of European rights and duties (as defined in the Treaties, Directives and Agreements that have been signed by member states since 1958) and at strengthening the capacity of the regions to withstand the pressures of globalisation (*DemosEuropa*). For others, mechanisms relating to the redistribution of wealth and social cohesion are matters that should be handled by national governments (*SIEPS*). Some recommend the total abolition of support for the agricultural sector (*CEPS*) while others suggest more moderate solutions regarding the development of rural zones and of the environment (*Notre Europe, SIEPS*).

THE RATIFICATION AND IMPLEMENTATION OF THE TREATY OF LISBON – WHAT IS AT STAKE ?

Panayiotis C. Ioakimidis, Board Member, Eliamep

The Treaty of Lisbon signed on 13 December 2007 is intended to enter into force on 1 January 2009, provided of course that it has been ratified by all EU member states by the end of the year. Given the traumatic experience with the failed process for the ratification of the European Constitution and the crisis it caused for the European Union, the ratification of the new Treaty acquires critical political importance for the cohesion, unity and even survivability of the European Union as coherent entity of 27 member states. Likely failure to ratify the Treaty of Lisbon could unleash uncontrollable dynamics that could put at real risk the unity of the Union, with far-reaching, irreversible consequences.

The ratification of the new Treaty should inevitably therefore be the overriding priority and concern of the European Union for the current year.

On the assumption that the ratification process is successfully completed and the new Treaty enters into force as planned, on 1 January 2009, the question of its implementation and effective functioning arises. Preparatory work needs to be carried out during the current year, and formal decisions and actual implementation must be pursued next year under the supervision and guidance of the Council presidencies.

But while ensuring the smooth implementation and functioning of the Treaty is something that should concern all the three member states of the new Troika presidency (France, Czech Republic, Sweden), ratification should hopefully concern only France (and the preceding presidency, Slovenia) – assuming, that is, everything goes as planned. On the whole, it seems that the Trio Presidency will be responsible chiefly for managing the early but critical stages of Treaty implementation, by translating Treaty provisions into actual policies and political reality. A truly challenging task.

RATIFICATION OF THE TREATY

The ratification process is, from a formal, legal point of view, the constitutional responsibility of the member states alone. However, the Council presidencies should have a well-thought strategy for, at best, facilitating or, at least, not adversely affecting the smooth unfolding of the process. This applies especially to France, as it is the Presidency in the second semester of the year that will hopefully manage the closing stages of the ratification process. This strategy should be based on three main points:

■ Managing the Council policy agenda in such a manner as to avoid giving rise to controversies in problematic member states – controversies which might hinder ratification by creating confusion and misunderstandings which gratuitously provide (rhetorical) ammunition to the opponents of the Treaty. In particular, careful handling of the mid-term review of the EU budget and policies is needed while the ratification process is still in progress (the awful experience with the Bolkestein directive and the Constitution should be avoided). Careful management of the policy agenda might have a certain short-term cost but this will be worth paying in order to secure smooth ratification.

■ Refraining from actions, statements, declarations liable to be construed as interference on the part of the EU institutions in the domestic ratification process. Nothing can be more damaging in certain member states than this. Instead, it seems that it will be helpful if the presidencies can continue to sustain the narrative about the “Europe of results” at the service of the European citizens. This applies of course not only to the Council Presidencies but also to other EU institutions, notably the European Commission.

■ This should not however prevent the Council Presidencies from closely monitoring the ratification process and discreetly “drawing the attention” of the delaying or problematic member states to the need to meet the target date for ratification. In this respect, the role of France, as the Council Presidency in the second half of the year, could be crucial in pushing member states towards completing ratification. And from that point of view it is important that France has itself proceeded to ratify the Treaty very early in the process.

IMPLEMENTATION OF THE TREATY OF LISBON

According to the conclusion of the European Council (December 2007):

“The European Council will take stock of progress on necessary preparatory work when appropriate so as to ensure the full functioning of the Treaty as soon as it enters into force. It underlines the comprehensive nature of this exercise and the consequent need for a single framework as well as political guidance at the highest level. Technical work will start in Brussels in January on the basis of a work programme which will be presented under the authority of the incoming President of the European Council.”

With the European Council providing political guidance, the Council and Coreper (as the “single framework”) will need to advance the preparatory work for the implementation of the Treaty. This places a heavy burden upon the Council Presidencies and especially the Trio Presidency starting on 1 July 2008. They will have to oversee the completion of the preparatory work (to be commenced under the Slovenian Presidency), the adoption of the formal decisions required after the entry into force of the Treaty, as well as – and more importantly – to handle the process of turning Treaty provisions into actual political reality and policies.

Three main principles should guide the presidencies in their task of managing the various stages of the implementation process:

First, “tight coordinated action” to ensure efficiency and continuity in the process. As the European Council conclusions provide for, there must be a “single framework” (namely Council/COREPER/European Council in association or consultation with other EU institutions whenever that is required) for tackling all the issues pertaining to implementation.

Second, respect for the essential institutional balances. This is important because the new Treaty contains a number of really novel institutional arrangements (i.e. President of the European Council, High Representative for CFSP/Vice-President of the Commission, European External Action Service) capable of upsetting fundamental institutional balances and symmetry if not handled properly.

Third, respect of interstate balances especially in terms of demographic, geographic and “accession criteria” (between “old” and “new” member states), particularly in the process of applying the Treaty provisions for the full-time President of the European Council, the President of the Commission and the High Representative.

Both fundamental interinstitutional and interstate balances need not be altered in any significant way.

The Slovenian Council Presidency, in a “note on the preparatory work on the entry into force of the Treaty” circulated in January 2008, has listed 33 items that must be tackled by successive presidencies before and after the coming into force of the Treaty. These items can be grouped into two broad categories:

- Items of mainly procedural, technocratic nature for the implementation of specific provisions of Treaty. The negotiation of these items is not likely to cause any acute political controversy nor is their enforcement likely to affect in any significant way the institutional symmetry, beyond helping to enhance procedural effectiveness in policy making.

- Items of heavy political nature which either flow from concrete provisions of the Treaty or arise as a consequence of the entry into force of the new Treaty. Because these items have the potential to significantly affect institutional architecture and symmetry, they are likely to provoke sharp political controversies in their negotiations.

In our view, the following eight items fall within the second category and as such they should form the core priority list for the new Troika Presidency (France, Czech Republic, Sweden):

- The election of the permanent President of the European Council (and the relevant decisions over support structures for the President).

■ The activation of the new mechanism for the election of the President of the European Commission by the European Parliament, “taking into account the elections to the European Parliament and after having held the appropriate consultations”.

■ The nomination of the High Representative (HR) for the Common Foreign and Security Policy (CFSP).

■ The establishment of the European External Action Service: a truly difficult task involving the striking of sensitive balances between institutions (Council/Commission) as well as member states (large/small, north/south), yet without compromising the Service’s main objective – namely to enhance the effectiveness, coherence and visibility of the Union’s external action.

■ The establishment of the list of different configurations of the Council (other than the General Affairs Council and the Foreign Affairs Council) and the definition of the role and functions of particular Councils, in particular the GAC.

■ The adoption of the decision for the exercise of the (team) presidency of Council configurations (other than that of the Council of Foreign Affairs).

■ The activation of the provisions for “permanent structured cooperation” in the context of defence, within the Union framework.

■ The adoption of the detailed arrangements for the activation of the mutual assistance clause in the area of defence as well as the “solidarity clause”.

Two other items of great institutional and political importance, namely the composition and the rotation of the members of the European Commission and the new QMV formula of double majority, will be dealt with at a much later stage, since the relevant Treaty provisions will not come into force until 2014.

No doubt the most critical decision, with the potential to determine the future institutional morphology of the EU – in particular, by shaping the triangular relationship President of the European Council/President of the Commission/High Representative – is that of the election of the permanent President of the European Council. France, as the Presidency most likely to be involved in the process if everything goes according to plan, should seek to make sure that the new President will be a truly European figure of undisputed respect and stature among member states. The person chosen should be able to generate consensus, to work constructively with the President of the European Commission and the High Representative for CFSP and provide political impetus to European unification. An alternative strategy could of course be to delay the appointments both of the President of the European Council and that of the HR until the second semester of 2009 (after the election of the new European Parliament), and to include them in a “package”

along with the Presidents of the European Parliament and the European Commission. This strategy could ensure a greater degree of political balance.

Regarding the Presidencies of the Czech Republic and Sweden, three areas of the Treaty can be identified as of high priority in the implementation process (besides continuing the overall implementation process):

- The new provisions in the area of freedom, security and justice (Title IV of the Treaty of Lisbon)
- The provisions on “the Common Security and Defence Policy”, especially the clauses concerning the establishment of “permanent structured cooperation”
- The practical implementation of the External Action Service.

THE TREATY OF LISBON AND ITS INSTITUTIONAL INNOVATIONS

Paweł Świeboda, President, DemosEuropa

It is the institutional changes which form the critical mass of the Treaty of Lisbon. The functioning of the institutions, especially in the area of external relations of the Union, is where the most important innovations are made. There is no doubt that the method of implementing these changes will decide the added value of the new Treaty and will have fundamental consequences for the future of treaty revisions in the European Union. The scale of the challenge should not be underestimated.

THE SYSTEM OF PRESIDENCY IN THE COUNCIL OF THE EUROPEAN UNION

The system of presidency in the Council of the European Union is a unique creation of the integration process. The passing of the steering wheel among the member states and the rotating management of the European processes is, relatively, the least reformed of those aspects EU functioning which have been in place since the very beginning – even though the role of the presidency has changed significantly since. The scope of the presidency's tasks has been enlarged in line with its adoption of new responsibilities in the area of external relations and representation of the EU, as well as in connection with the growing role of the European Parliament and the extension of the co-decision principle – which has required a greater interaction between the two institutions.

The growing complexity of the EU became a particularly relevant problem in the sphere of external representation, where the cyclically changing composition of representatives proved to be difficult to understand for the external partners and did not enhance the EU's image. This was the case in spite of the effective functioning of the High Representative for CFSP, created in the Treaty of Amsterdam, who undoubtedly helped to address the issue of the Union's external representation.

The Treaty of Lisbon maintains the most important innovation of the Constitutional Treaty with the new function of the permanent President of the European Council. There will be a change in the method of conducting the work of the Council on Foreign Affairs, which will now be chaired by the High Representative for Foreign Affairs and Security Policy. The existing system of presidency will be retained in the other Council formations. This means that we will have a partial reform which covers the most important functions from the perspective of work continuity and external visibility but maintains the current practice in important chunks of the institutional system. This solution confirms

a qualitatively new situation in which the external environment of the European Union shapes to a growing extent the Union's internal dynamics.

Systemic challenges relate to the need to maintain cohesion of the new institutional system. In this scene, the permanent presidency will coexist with the member states holding presidency in the respective council formations, will form part of the new group presidency, and will work alongside the president of the euro-group. The problem could be most apparent when politically sensitive issues feature on the agenda, such as the new financial perspective or the energy-climate dossier. On the other hand, the current presidencies are already supported very strongly by the Secretariat General of the Council, especially when it comes to preparing conclusions of the European Council. That situation will change to the extent that the Secretariat General will have its political leader in the person of the new permanent president.

The intention of the Treaty of Lisbon is to equip the President of the European Council with competencies which would give him a genuine sway over an important part of the decision-making process in the European Union. On the other hand, the Treaty contains guarantees of the institutional balance through the requirement of cooperation with the European Commission and activity "on the basis" of the work of the General Affairs Council. That latter provision is particularly important from the point of view of providing a safety net to protect the interests of the member states.

The added value of the new function would certainly lie in ensuring continuity of the work of the European Council. One should therefore expect that it is in this very area that the new president will need to show particular determination. It means that there will be a need to pay special attention to effective communication with the European Commission and with countries holding the group presidency.

External representation of the Union will be another problem to solve, given that the Treaty explicitly confers that role to the President of the European Council at his level and in his area of competence, without encroaching upon the tasks of the High Representative. That provision is not entirely precise, because acting in the area of competence of the President of the European Council could mean the domain covered by the conclusions of the European Council – where traditionally there is an extensive review of the EU's external relations.

EUROPEAN COMMISSION

The European Commission is in itself the largest innovation of the institutional system of the European Union. Responsible for safeguarding the community interest, the Commission symbolizes the initial method adopted by the "founding fathers". It both initiates legislation and carries out executive and regulatory functions. It has a bureaucratic

character but it performs an enormously political role as the initiator of solutions which have a fundamental impact on the way the European economy functions. The European Commission draws its mandate from the political will of the member states and the efficiency of solutions it proposes. Taking the letter of the law, the fundamental feature of the European Commission lies in its independence, which is reflected in the Treaty guarantees.

The position of the European Commission is traditionally a barometer of the readiness of the member states to engage in the process of deepening European integration. The greater the readiness, the more probable the advancement of the integration projects and the stronger the role of the Commission in bringing it about. At the same time, there is often a suspicion among the member states that the European Commission, coming up with new ideas, is in reality mostly interested in enhancing its own status. Due to this fact and as a result of the past disagreements with the member states – including over its initial proposal for the financial perspective for the years 2007-2013 – the recent period has been dominated by attempts to find political compromise with the Council. Learning from experience, the European Commission has carefully evaluated its possible room for manoeuvre. It has not displayed the classical leadership role, stimulating the activity of the member states and presenting new projects and solutions. Instead it has tried to steer in the direction defined at the political level.

Two of the most important changes introduced by the Treaty of Lisbon which relate to the European Commission are the election of the Commission President by the European Parliament and the decrease in the Commission's size to 2/3 of the number of member states after 2014. Both of these decisions will have an impact on the continuing politicization of relations between the Commission and its interlocutors at the Parliament and the Council of the EU.

In line with the Treaty of Lisbon, the nomination of the President of the European Commission becomes an election of the candidate proposed by the European Council by the parliamentary majority. The Treaty also directly states that elections to the European Parliament should be taken into account in the selection by the European Council of the candidate for Commission President.

The extent of the change is perhaps not enormous but in reality it gives the European Parliament the possibility to strongly influence who takes over as President of the European Commission. The formulations used in the Treaty of Lisbon can encourage political parties to express their preferences as to the possible candidates for Commission president even before elections to the European Parliament. In this way, the European Council could find itself under strong pressure to designate a candidate suggested by the winning political family. This solution would serve the purpose of greater public engagement and debate around nominations for the main positions in the EU. Another effect would be an increased politicization of the European Commission, which would lead to a change in the

profile of its activity and shift the emphasis from the defence of the community interest to the efficiency of implementing EU objectives.

The size and the composition of the European Commission are traditionally some of the most politically sensitive aspects of the functioning of the European Union. For many member states, they are a measure of equality among states, a fundamental principle. Small member states have traditionally considered a place in the college of commissioners to be a bastion of their influence over the decision-making process. On the other hand, the successive enlargement of the size of the Commission has changed the character of its work and the significantly reduced its collegiality. A majority of the current commissioners would probably agree that collegiality is in reality governed by the President and president's cabinet, supplemented by a number of the more influential members of the Commission. It is certainly not the case that critical strategic issues are subject to collegiate decision.

It is likely that the rotation in the European Commission will be coordinated with a rotation in the Council of the European Union. This would allow for some kind of "compensation" for the missing commissioner, in the form of holding the presidency in the Council. It is not to be excluded that large member states would in any case try to keep their commissioner which – given the unanimous way of taking decisions on this matter – would require very strong political pressure or a package of compensation measures for smaller member states.

There is no doubt that the European Commission must build political support for its initiatives in the largest member states. A possible political compromise with the small member states could cover the positions of the President of the Commission and the President of the European Council. It cannot be excluded that larger member states would have to pay the price for preserving their commissioners, by conferring the latter two functions on the smaller member states. Conversely, the price for the participation of the larger member states in the rotation process would be an informal agreement concerning their "adequate representation" in top posts. The institutional equilibrium would be maintained if the post of the President of the European Council were filled by a citizen of a large country while the President of the European Commission lacked a transmission mechanism benefiting the larger states (given the way the system of rotation is constructed).

EUROPEAN PARLIAMENT

The European Parliament has for years been the biggest beneficiary of the efforts to enhance the democratic legitimacy of the integration process. Although the turnout in elections to the European Parliament continues to fall, the institution is an increasingly skillful political actor, able to take care of its interests and make a substantial impact on the decision-making process. It has consolidated its position in successive treaty reforms.

The Parliament becomes an equal participant in the legislative process, where it exercises the role of a law-maker together with the Council (article 9a). A simple legislative procedure is introduced on the basis of the existing co-decision procedure. The Treaty extends its scope to almost all areas of European law, with the most important modification concerning justice and home affairs: here the simple legislative procedure will now cover protection of the frontiers, asylum and immigration policy, judicial cooperation in criminal matters, the functioning of the Eurojust and Europol, police cooperation and civil protection.

There is concern that raised expectations of the European Parliament might have a negative impact on the quality of its legislative work, in a situation in which the Parliament has just addressed the consequences of the latest round of EU enlargement. This is all the more important given that the changes will be introduced in parallel with the new arrangements concerning the role of the European Parliament in the comitology procedure, agreed by the Council in 2006.

The Treaty of Lisbon extends the co-decision procedure to the entire area of the annual budget of the European Union (articles 268 and 279b). The distinction between compulsory and non-compulsory expenditures ceases to exist and the Parliament gains the right to decide about the final thresholds of expenditures in all categories. To preserve the equilibrium, the Council of the European Union keeps the ability to shape the multi-annual financial framework, setting the upper limits of expenditures for the annual budgets. However, the role of the European Parliament in the process of making these decisions should not be marginal.

The European Parliament has a growing capacity to exercise democratic control in the institutional system of the EU. The Parliament “elects the President of the Commission” whose candidacy is recommended to the European Council, taking into account elections to the European Parliament and after holding relevant consultations (art. 9d). The Parliament confirms in a collegiate fashion the remaining Members of the Commission. The Commission has a collegiate accountability to the European Parliament. Declaration 6 attached to the Treaty, which states that both institutions will be jointly responsible for the process of electing the President of the European Council, points to the need for the European Council and the Parliament to reach a political compromise on the issue.

INSTITUTIONAL PROVISIONS IN THE AREA OF FOREIGN POLICY

The enhancement of the institutional capacity of the European Union in the area of the Common Foreign and Security Policy and external relations is one of the key innovations of the Treaty of Lisbon. It testifies to the growing political maturity of the European Union, whose founding document, the Treaty of Rome, makes no reference to the involvement of the (then) European Economic Community in international matters, excluding trade.

There is no doubt that the innovations offer a unique opportunity to enhance the cohesion and efficiency of external actions of the EU.

Clearly, the most important change concerns the amalgamation of the current functions of the High Representative for the CFSP, the presidency chairing the Council on Foreign Affairs and the Commissioner for External Relations, which holds hope for greater cohesion and efficiency. In spite of the more exposed tensions and animosities between the European Commission and the Council Secretariat, the High Representative's new role as president in the Council on Foreign Affairs should be considered as an equally – if not more – significant change in the existing system. In practice, the High Representative has relatively infrequently received a political mandate to act vis-à-vis third countries. Generally, the presidency has jealously guarded its own prerogatives in the area.

Procedures which will be used both in the Commission and in the Council remain different. This means that the High Representative will have to display effectiveness and political sensitivity in order to skillfully navigate between the two institutions. This fact will certainly mean a greater work burden, to the extent that conducting political dialogue in the wider world will become extremely difficult.

The scope of the tasks which the High Representative/Vice-President of the Commission will have to take on is so great that a deputy of the High Representative will need to take up at least some of them. A practical decision on this matter will not be easy given that the selection of a deputy among other Members of the European Commission would suggest a vertical dependency which would be in contradiction with the principle of equality among commissioners.

The creation of the European External Action Service is a significant innovation because it will create a strong support mechanism for the High Representative, who has so far been able to count on a relatively narrow group of experts. The system of delegations in the third countries will provide additional support. It will allow for the gradual building of a strategic culture among professionals involved in the shaping of the EU's foreign policy. Candidates to the EEAS will be selected on the basis of experience and expert knowledge, but a mechanism for ensuring geographic balance and adequate representation of all the member states will nevertheless be necessary. It will be a challenge to find a balance between the respective institutions, taking into account the inevitable quantitative advantage of the personnel of the European Commission – where 6.000 people are employed in DG Relex and in international delegations of the Commission.

The clarity and efficiency of the new system will also be decided by the cohesion and chain of command, which should be visible at different stages of the decision-making process. In particular this concerns the working groups of the Council, which should be chaired by officials of the EEAS. This would be a logical consequence of the decision to confer the task of chairing the Council on Foreign Affairs on the High Representative, and

the task of chairing the Political and Security Committee on a member of his staff. Pressure is likely to grow on the part of the member states to preserve at least some of the groups under their umbrella. However, that sort of division of labor would make it difficult for the High Representative to fulfill his functions.

EU delegations in third countries will be an important element of the EU's foreign-policy machinery, although they are less precisely defined in the Treaty. They will need to tie together the functions of the current Commission representations with the tasks of the intergovernmental CFSP. This will have to be reflected in the human resources policy of the delegations.

CONCLUSIONS

The Treaty of Lisbon is not considered a state-of-the-art achievement of European integration. Only three years ago it would have been unthinkable for the EU leaders to accept willingly a document which replicates in form all the deficiencies of the existing primary law of the Union. Unquestionably, the institutional improvements it introduces will be the main advantage of the new Treaty. What is more, the success or failure of the institutional innovations will decide about the treaty method of integration in the future. The Treaty of Lisbon will remain a point of reference for some time to come. All the mechanisms for flexibility which it contains will need to be fully used in practice before the European Union is ready for the next treaty reform. This means that every possible effort has to be made to implement it according to the spirit of the original text.

THE INVESTITURE OF THE NEW POSTS UNDER THE TREATY OF LISBON – SOME PRACTICAL REFLECTIONS

Sebastian Kurpas, Research Fellow, CEPS

If the Treaty of Lisbon is to enter into force on schedule, it does not only have to be ratified in all 27 member states by the beginning of 2009, but also important measures regarding its implementation must be decided by then. The Slovenian Presidency of the EU has recently identified 33 issues that still need to be tackled, ranging from the establishment of the European External Action Service to the agreement on the exact procedure for the Citizens' Initiative. However, the question that stokes the most public interest is, "Who will get the top positions created by the new treaty?" The permanent President of the European Council, the new "double hat" (i.e. High Representative/Vice-President of the Commission) and the elected European Commission President will form the new "top team" at the helm of the EU. Potential candidates have started to position themselves and the media have picked up the debate, but the actual bargaining will probably only start during the French Presidency of the EU in the second half of 2008. This text gives a short overview of the implications and presents some recommendations for the presidency.

As always in the EU, national leaders will demand that the new posts represent an acceptable balance between political left and right, small and large countries, North and South as well as new and old member states. When holding the EU presidency, the respective country must bridge the gap between the sometimes contradictory tasks of providing leadership and building consensus. If the presidency neglects the latter, it undermines its credibility as an "honest broker", which may result in other member states rejecting its proposals.

THE EUROPEAN COUNCIL PRESIDENT: NO "COUNTER-POPE" TO THE COMMISSION PRESIDENT

A look back at the last few years illustrates that the permanent European Council President has been a very sensitive matter. The concept was initially promoted by the leaders of three large countries (Aznar, Blair and Chirac – for which it had also been dubbed the "ABC-plan"), while almost all small member states rejected it as an attempt to grab power by large countries and to weaken the Commission. To counter suspicion that the European Council President will become an intergovernmental "counter-Pope" to the Commission President, it would be advisable to choose a person from a smaller member state and/or someone with relatively pro-integrationist views. Especially worthy of consideration would be an individual from a member state that is at the core of European integration

– i.e. part of the eurozone and the Schengen area – in order to give the person the necessary clout when speaking on these policy issues. Last but not least, it will be important to choose a personality who can build an internal consensus, while providing a charismatic external “face” for the Union. According to the treaty provisions, the European Council President will not have many legal powers. The weight of the office will therefore depend on how he or she uses it to ensure internal coherence and external visibility for the EU.

THE “DOUBLE-HAT” (HIGH REPRESENTATIVE/VICE-PRESIDENT OF THE COMMISSION): NOMINATE IN 2008, BUT TAKE OFFICE IN AUTUMN 2009

The choice of the new “double-hat” is also likely to be made in the second half of 2008, not least to allow for a “package deal” with the candidate for the permanent European Council President. However, in the event that the “double-hat” is not Javier Solana, the new person should not immediately take office. Rather, he/she should start his/her job as “double-hat” only with the new Commission in the autumn of 2009. In the function as Commission Vice-President, the “double-hat” is part of the Commission College, and should therefore also be treated as such. He/she should at least need formal approval by the future Commission President, who will decide on the new College members with national governments. The new College will also have to obtain the approval of the European Parliament, which means that the EP should be involved in the nomination of the “double-hat” as early as the second half of 2008. Although the composition of members will have changed by the autumn of 2009, the EP’s approval is much more likely if it has been part of the initial nomination procedure. In concrete terms, the scenario would mean that following the nomination of a new person in 2008, Javier Solana would stay on as High Representative until the autumn of 2009 and additionally take on the job as a Commission Vice-President and Commissioner for External Relations for the interim period between January and September 2009. The Spanish Commissioner Joaquín Almunia would have to step down, and the Austrian Commissioner (either Benita Ferrero-Waldner or another Austrian national) would take Almunia’s portfolio for the remaining months.

THE ELECTED COMMISSION PRESIDENT: LEAVE IT TO THE EUROPEAN ELECTIONS

Concerning the next Commission President, it is important to avoid giving an impression that the choice is part of a pre-cooked package deal that was struck long before the European elections. Under the new treaty, the Commission President will be officially elected by the majority of the members of the European Parliament, and since no one can predetermine the results of these elections, the Heads of State and Government should be careful not to appear to have done so. European elections are one of the rare occasions when citizens can get directly involved at EU level, but few have made use of that opportunity in the past. Since the first direct elections in 1979 voter turnout has continuously

decreased, falling to as low as 20% in some of the new member states in 2004. The coming European election campaigns should make it clearer that there are choices to be made and should spell out what those choices are. The conservatives (EPP) will probably support the current Commission President, José Manuel Barroso, while it is not yet clear whether the liberals and the socialists will be united enough to nominate their own candidate ahead of the elections. Even if they do not, it would damage the European elections if citizens get the impression that a package deal has already been made. It would confirm the widespread image – however unjustified – that European elections are simply an irrelevant proxy of a national contest.

Although three top posts will have to be filled by the autumn of 2009, it is becoming clear that a “one-size-fits-all” approach for all of them is not suitable. The process will demand much dexterity from the Presidency, which will need to find an appropriate procedure and a balance between different interests at the national and European levels.

THE RATIFICATION OF TREATY OF LISBON – THE KNOWN UNKNOWN OF THE TROIKA

Věra Řiháčková, Research Fellow, Europeum

After the experience of the wave of planned and implemented referenda on the Constitutional Treaty in Europe, the governments of the EU member states adopted a rather cautious approach, opting for parliamentary votes (with the exception of Ireland where the referendum is mandatory) in the case of the Treaty of Lisbon. The preceeding experience with popular votes, both implemented or planned, was somewhat difficult for the political elite in Europe. First, the voters did not vote on the treaty content but rather on the domestic issues linked to it (enlargement, liberalization), also on totally unrelated issues (the popularity of the governing figures and protest votes). Second, the political class was divided on the issue (both inter- and intra-party; in France, for example, the Socialist Party was internally divided). This division was rather deep in some member states (particularly the Czech Republic, the UK and Poland), which often resulted in hesitant and cautious political signals and statements, backstage negotiations, a lack of communication with the citizens and absence of debate.

Understandably, the will to risk political capital on directly legitimizing the new Treaty has decreased (the politicians usually talk about “a need to avoid problems”). Also, nobody is quite certain what would happen with the European integration process and its ethos if the Treaty of Lisbon was not ratified, and therefore nobody wants to increase the risk to ratification by exposing the treaty to the (unnecessary) unpredictability of referenda. The future will show whether such an approach will be punished by the electorates in the upcoming elections in (some) member states; with the European Parliament elections this is more likely to be the case than with domestic elections.

THE CZECH PRESIDENCY AND THE RATIFICATION PROCESS

The Czech Presidency in the first half of 2009 is going to be influenced by the speed of the Treaty of Lisbon ratification process and the implementation of the changes the Treaty envisages in the institutional field. There are also other circumstances which might make the the Czech Presidency more difficult: first, European Parliament (EP) elections are taking place in June 2009, influencing the legislative effectiveness of the body. The EP elections will also contribute to a heated atmosphere both at the EU level and in the Czech Republic's domestic politics in particular. In the countries holding the EU Presidency, a political ceasefire is usually concluded for the 6-month period. In case of the Czech Republic this could prove difficult, not only due to the EP elections but also because of the

general political situation in the country (i.e., developments following the general election and the presidential election in February 2008). Secondly, the European Commission's term in office is going to end during the Czech Presidency. The Commissioners will split into two groups: those aspiring for re-nomination (with a limited will to promote any reform steps in the interim) and those leaving the Commission for good (some of them striving to return to their domestic political life and thus ready to support particular interests of their member states).

The date the Reform Treaty enters into effect is crucial variable for the Czech Presidency. There are consequences in terms of the implementation of the new institutional provisions – namely the investiture of the Permanent President of the European Council and the newly defined High Representative for CFSP – which will have an impact on the effectiveness of the Czech Presidency.

There are 4 ratification scenarios:

- Treaty in effect as of January 1st 2009 (as planned).
- Treaty in effect during the spring 2009.
- Treaty ratification significantly delayed, no implementation overlaps with the Czech Presidency.
- Treaty not ratified.

It is evident that the first scenario would have the most major impact on the Czech Presidency's influence and effectiveness. Due to the envisaged institutional changes to be implemented right after the end of ratification (a special EU summit) or during the Spring European Council, the Presidency would be more inward-oriented; and the nomination of the High Representative for CFSP would leave the Presidency without an influence over the EU's external relations. The second scenario (the ratification encounters difficulties somewhere; the Treaty is implemented during the spring of 2009) would be the most inconvenient for the Czech Presidency since it would need to wrap up the negotiations on the "nomination policy" and expend much effort on managing the bargain successfully. It is also debatable that the Czech Republic's influence over the nomination policy would be thus increased, as some suggest. If the third scenario (a longer delay in ratification or a deal to start with the new institutional provisions after the EP elections) applies, the Czech Presidency will be "fully fledged" by the current definition. On the other hand, the Presidency would have to deal with the ratification issue and it is likely that it would face the "specific strategies" of certain member states delaying the ratification process. Some argue that the Czech Republic could even adopt the strategy of prolonging the ratification process and thereby shifting the date of implementation beyond the Czech Presidency, if the situation becomes complicated anywhere in the EU. However, it is unlikely such a strategy would be followed intentionally

since the Czech Presidency's credibility as a broker would be damaged. The consequences of non-ratification (4th scenario) are not yet clear, but it is clear that the Presidency's role as a broker of the reflection process would then be a priority. The emphasis would then be on preventing moves towards a "core Europe".

RATIFICATION PROCESS IN THE CZECH REPUBLIC

Until recently, the ratification scenario in the Czech Republic seemed uncomplicated. Unlike the case of the Constitutional Treaty, the method of Treaty of Lisbon ratification (parliamentary vote) was agreed by the senior Civic Democratic Party (ODS) and both junior coalition partners (the Greens and the Christian Democrats, KDU-CSL), and supported by the Social Democrats (ČSSD), who are the main opposition party. The only political party to call for a referendum on the Treaty of Lisbon was the Communist Party (KSCM). Article 10a of the Czech Constitutions provides a classic means of parliamentary assent: both chambers of the Czech parliament vote by three fifths of their members, with the President ratifying the treaty afterwards (no deadline is envisaged).

The ruling ODS changed its policy: originally opposed to the Constitutional Treaty, the party was forced to negotiate the Treaty of Lisbon on behalf of the Czech Republic directly after coming into power. To counter its Eurosceptic profile, the ODS elites in the government adopted a policy of political realism. They stated that to adopt a strictly ideological approach is counterproductive in the EU, that the ideological debate can take place at the same time a compromise is found. However, it seems not all ODS representatives are won over to political realism in EU matters: during the vote on the report on the Treaty of Lisbon in the European Parliament, the ODS MEPs abstained from voting, in opposition to the official policy of the government. Meanwhile, the ODS senators (with a majority in the upper chamber of the Czech parliament) had already announced that the Treaty of Lisbon would be referred to the Czech Constitutional Court on the basis of competences transferred by the Senate. The re-election of Václav Klaus (honorary chairman of ODS) as president of the Czech Republic raises the question of how committed he is to the Treaty of Lisbon ratification process – according to the Czech constitution, it is his signature which must confirm the successful ratification. However, it is unlikely he would block the whole process once both chambers of parliament have voted in favour (backed perhaps by a positive opinion of the Constitutional Court). Meanwhile, the fate of the Treaty might once again be taken hostage by domestic political quarrels.

CONCLUSIONS AND RECOMMENDATIONS

Despite some complications of the ratification process (for example, developments in Slovakia and Poland), there is a will to keep to the schedule agreed by the heads of state and government. If the Treaty of Lisbon comes into effect as planned, several important

issues related to the “transformation” period will emerge. It is not clear when the pre-negotiation and investiture process on candidates for the new posts will take place, and whether this business will occupy only the French Presidency or parts of both the French and Czech Presidency or indeed only a part of the Czech Presidency (the June European Council after the EP elections). Another complicating issue is the (still) unresolved “code of conduct” under which the new institutional structure will operate, including the “cohabitation” of the heads of the Presidencies (Prime Ministers and the French President) with the Permanent President of the European Council. This issue is serious since it is closely intertwined with the motivation and sense of ownership on the side of the Heads of State and Government. To motivate the top national politicians is crucial in order to obtain tangible political deals and pay-offs at the European level.

The author’s recommendations to the Trio Presidencies are as follows:

- It is necessary to pre-negotiate (between member states, the Commission and the Parliament) the “code of conduct” under which the new institutional structure will operate, at least partly; to rely on the “learning by doing” principle could harm the effectiveness of the EU institutions, due to disputes over competencies.

- A functioning model (new game rules) for the “cohabitation” of the presidency and the Permanent President of the European Council, as well as for the “cohabitation” of the presidency and the High Representative for Foreign Affairs and Security Policy (also at the COREPER II/COPS relationship level) must be found.

- Different scenarios of treaty ratification must be elaborated by all three presidencies, ideally in close cooperation with each other, in order to be prepared for negotiation for the new posts whenever it may begin.

- Particular attention should be paid to those new decision-making mechanisms stemming from the Treaty of Lisbon which will have a direct impact on the work of the EU Council presidency (both in executive and legislative powers): Orange Cards from national parliaments, new QMV, new budgetary procedure, a communitarised third pillar cohabiting with past bills which remain in the previous inter-governmental regime, etc.

THE ROTATING PRESIDENCY UNDER PASSAGE TO POST-LISBON RULES – A HUMBLE TASK OF MANAGING REGULAR BUSINESS

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THE RATIFICATION OF THE LISBON TREATY: A SWEDISH DIMENSION

The Swedish Prime Minister who signed the Lisbon Treaty in 2007 was not the same one who signed the Constitutional Treaty in 2004. Following general elections in October 2006, there was a shift from a Social-Democrat government to a non-Socialist coalition. The new government is – as was the old – strongly in favour of EU membership and also of EU reform along the lines envisaged in the Lisbon Treaty. The government has been clear about its intention to complete ratification of the Treaty by a single decision in the Swedish Parliament, the Riksdag, in which at least three quarters of those voting concur.

The procedure for ratification is very likely to work as planned – particularly given that the new government's most forceful antagonist, the Social-Democrat opposition, would seem to have just as much to lose from a failure. In the light of this it may be concluded that Sweden should have no great problems to complete ratification of the Lisbon Treaty some time during late autumn 2008. But at least two factors may be imagined which could upset such a neat series of events. Both of them relate to the fact that the procedure for ratification will require support by three quarters of those voting in the Riksdag – a requirement which the government can only satisfy with support from the Social-Democrat opposition.

The first of these factors relates to the progress of ratification in general. Any failure on behalf of its partners in Europe is likely to push Sweden towards a later date in the calendar: the government will most likely want to stick to a wait-and-see-approach. But that reaction will have to be balanced against the fact that they themselves will have to take over the rotating presidency of the EU in July 2009. The situation will be similar to that of the Finnish Presidency during the notorious "period of reflection" and the government will want to have Swedish ratification completed before it takes up the job.

The next general election in Sweden is scheduled for October 2010. But a ratification crisis outside Sweden may affect the behaviour of politicians and parties before that. If any other member state should produce a "no" as a result of certain concerns, for example the protection of social rights and trade unions' standing (e.g. Denmark) or a fear of European ambitions in security policy (e.g. Ireland), this would have repercussions. Beside a boost in public support for currently small parties of Eurosceptics or populists (something which

could affect the 2010 elections), it would put pressure on the major parties in the Riksdag and, in particular, on the Social-Democrat opposition.

The second factor which could interfere with the Swedish plan for ratification is the risk of a sudden shift of priorities within the Social-Democrat opposition. Even if it is strongly in favour of EU reform along the lines envisaged in the Lisbon Treaty it is also less sensitive about the timing than the government. Presumably the upcoming presidency will also be a less compelling justification for rapid ratification. The stir caused by the recent Laval ruling – in which the European Court of Justice seemed to confirm that the EU's fundamental freedoms (here the free movement of services) could impede the exercise of trade unions' fundamental rights – has become a reason to discuss conditions for approval of the Lisbon Treaty. According to the Secretary-General of the European Trade Union Confederation, the ruling has led to a situation where trade unions across Europe are now "deeply concerned with defending their national systems – and we risk a protectionist reaction... The Laval case, in particular, could damage the ratification of the EU Reform Treaty as awareness of its implications spreads."

The political reactions within Sweden – to the ruling and to the subsequent debate – have been immediate. Perhaps most notably, some strong voices within the Social-Democrat opposition are arguing that the process for ratification of the Lisbon Treaty must be halted until sufficient guarantees are secured for the "Swedish model" of welfare. Even if it seems highly unlikely, a point may yet be imagined where the Social-Democrat opposition will be forced to respond to such concerns rather than defend the government's tight schedule – as it may then be seen – for ratification of the new Treaty.

THE ROTATING PRESIDENCY DURING PASSAGE TO POST-LISBON RULES

There is a clearly stated ambition that the amendments introduced by the Lisbon Treaty will enter into force by January 2009 or as soon as possible thereafter. The Swedish role in fulfilling that ambition has been discussed above. Some thoughts follow about the implications for the rotating presidency of that ambition being – or not being – achieved.

It is well known that the Lisbon Treaty introduces numerous changes of relevance for the organisation and operation of the "Presidency" in the EU. Most notably, the current system of a presidency rotating between the governments of the member states will be reformed through the introduction of new forms of permanent presidency. The rotating presidency will remain, in simplified form, as the everyday norm with respect to the general work of the Council. But with regard to the European Council, the previous responsibility of each government holding the presidency will now be transferred to a President of the European Council who will be appointed for a (renewable) term of two and half years. At the same time, the formal status of the European Council will be upgraded to the level of "Institution". The move entails more tasks, and more specific tasks, than previously.

Exactly how the remodelling of the European Council will affect the workings of the Council of Ministers (or indeed the Commission), as we are now familiar with them, is not entirely clear.

In addition to the above, the function of High Representative for Foreign and Security Policy, currently exercised by the Council's Secretary-General, is being reinforced. It follows from the Lisbon Treaty that the new High Representative will assume responsibilities for the work of the Council of Ministers in fields of foreign policy which were previously entrusted to the government in charge of the rotating presidency. Importantly, the new High Representative will simultaneously be designated Vice-President of the Commission and will be responsible, within the Commission, for external relations and the co-ordination of external action. The new High Representative will also participate in the work of the European Council.

The major differences for a government holding the rotating presidency of the EU after entry into force of the Lisbon Treaty, compared to the situation before, are i) that matters falling within the European Council's remit will be excluded and ii) that matters which are the reserve of the Council of Ministers will be excluded to the extent they are taken over by the High Representative for foreign and security policy. No major difference may be expected with respect to the organisation and operation of the rotating presidency in other matters managed by the Council of Ministers (no consideration being made here of the special arrangements applying to the Euro Group). But this does not mean that there are not other elements introduced by the Lisbon Treaty that may affect the preconditions for the rotating presidency. In particular, it is reasonable to assume that a number of provisions reinforcing the role of the European Parliament will have effects on the operation of all forms of presidency in the EU.

Already before the entry into force of the Lisbon Treaty, the European Parliament is responsible for approving a new Commission (collectively). But with the Lisbon Treaty, European Parliament will also be responsible for formally appointing the new Commission President. The European Parliament will also be able to exercise a new element of control over the High Representative for foreign and security policy. Even if the power of appointing the person in question will remain with the Council (previously Council of Ministers, now European Council), the European Parliament will now be responsible for approving the choice.

The most obvious conclusion that may be drawn from all this is that the upcoming election to the European Parliament in June 2009 will be a crucial factor to consider, in particular for the Swedish Presidency. The first major task for the new European Parliament will be the appointment of a new Commission. This, indeed, will occupy much of its agenda during the autumn. If the amendments introduced by the Lisbon Treaty come into effect, the role of the European Parliament will be more extensive than ever before and it will not want to miss any opportunity to make the most of it. Beside the appointment of

the Commission President and the approval of the Commission in general, discussions concerning the new High Representative for Foreign and Security Policy are likely to be a focus of attention. An important question is how the responsibilities of that High Representative will be assured in the period between entry into force of the new rules and the European Parliament's approval of a new Commission. If, as envisaged, the Lisbon Treaty enters into force at an earlier stage, this will have immediate consequences for the Czech and the Swedish Presidency. But since an answer to the question must be worked out in advance, it will also be a matter in which efforts made by every preceding presidency, and in particular the French, will be decisive.

Importantly, the Lisbon Treaty will strengthen the position of the European Parliament in the procedures for adoption of both "legislative" and "non-legislative" acts (delegated and implementing acts). For this reason the need to ensure a smooth shift from pre-Lisbon to post-Lisbon rules should be emphasised. It is particularly important to ensure that matters already initiated – those proposals for legislative and non-legislative acts "in the pipeline" – will not be held hostage to inter-institutional conflicts or power struggles caused by the implementation or non-implementation of the new rules. It may help to remember that precisely this situation arose after the entry into force of the Treaty of Maastricht. Then the European Parliament proved it was prepared to use its powers under the new co-decision procedure to withhold necessary support for most legislation pending agreement over horizontal arrangements for non-legislative acts (comitology). In the light of that risk it seems paramount that each presidency avoid such disagreements and seek to anticipate points of potential conflict. This goes for the particularities of all individual proposals and also for new horizontal arrangements envisaged by the Lisbon Treaty (and again the rules for adoption and control of non-legislative acts offer an example). Also in this respect, efforts made by every preceding presidency, and in particular the French, will be decisive for the Czech and the Swedish Presidency.

CONCLUSIONS AND RECOMMENDATIONS

With respect to the formal preconditions, there will be more room for the Czech and the Swedish Government to play active roles as Presidents of the EU if the Lisbon Treaty has not yet entered into force. Once the Lisbon Treaty has entered into force, the current responsibility of the rotating presidency for the work of the European Council will be transferred to the new permanent President. Furthermore, the remodelled High Representative will inherit responsibility for foreign policy matters, currently managed by the rotating presidency on behalf of the Council of Ministers. The effects of these changes for the rotating presidency will be most apparent when it comes to defining and visualising the role of the Head of State or Government (and also the role of the Foreign Minister). In spite of the apparent loss of influence – and therefore opportunities – resulting from the Lisbon Treaty, neither the Czech nor the Swedish government would be well-advised to wish for an interruption in the Treaty's ratification, since that would amount to a full-scale "crisis" which neither is likely to master.

If everything works out as planned and the rules introduced by the Lisbon Treaty set the ground for their presidencies, both the Czech and Swedish governments should be cautious not to aim too high – with any extraordinary project, for example – but should rather satisfy themselves with the humble task of managing regular business. This is particularly so in the case of the Swedish government, since its term of presidency will coincide with much irregular business. Not only must provisions of the new treaty be put into operation but a new European Parliament and a new Commission will take up office. A successful presidency during the passage from pre-Lisbon to post-Lisbon rules is a presidency which is able to secure a smooth transition: one that does not fail, rather than one that succeeds.

Obviously, it will be crucial for the French, Czech and Swedish governments to co-ordinate the programme of their presidencies with each other and with the overall plans of the Council and the European Council: the priorities which are most likely to materialise are those which they all are willing to embrace. The imminent shift to post-Lisbon rules probably also makes it more important than before for each presidency to co-ordinate its programme with the Commission's agenda and to demonstrate its respect for the European Parliament. Ensuring consistency in the co-ordination of programmes and priorities will continue to be the most important responsibility of each Head of State or Government. The priorities of the French government can realistically be expected to materialise during its own Presidency; this is clearly less so in the case of the Czech and Swedish governments. But for these two, the priorities – and achievements – of the French government will be fundamental. The concrete result – the decisions or concluding negotiations – that the Czech or the Swedish Government will want to deliver during its term of presidency should ideally fall within a framework set by the French government. But there may also be limited space to raise other specific issues, if these coincide with the plans of the Council and the European Council in general. The reasons for doing so are even more compelling if the issues have already been addressed in initiatives from the Commission.

To the extent that specific objectives are singled out by the Czech and Swedish governments, these should be pursued in the regular business, among other matters already in the pipeline. The programme of each presidency should be constructed around one or a few proposals for legislation, with the aim of a successful conclusion of negotiations towards the end of the term. It may be wise to invest at an early stage (i.e., now) in initiatives which may serve as evidence of commitment to a "European model" of welfare. The spill-over from the heated debate over the Laval ruling into the process for ratification of the Lisbon Treaty must be acknowledged as a point of potential conflict which present and subsequent presidencies should seek to anticipate. If this potential conflict reaches a certain magnitude, some sort of concessions will have to be made to those political groupings which may put at risk the completion of ratification. A balanced solution – as perceived at the moment of writing – would be to accept the need to review existing legislation (such as the Posting of Workers Directive) and perhaps the need to secure support for new legislation (such as the Temporary Agency Workers Directive).

This might thus shift attention away from any alternative which entails discussions on the substance of the Lisbon Treaty.

FROM A EUROPE OF PROJECTS TO A PROJECT FOR EUROPE AND ITS CITIZENS

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After the resurrection of most of the Constitutional Treaty into a Reform Treaty that seems more likely to be ratified than its predecessor, the next troika of Council presidencies will be tempted to look ahead and at last focus all energy on this “Europe of results” or “Europe of projects” – which has become the Commission motto and is extremely appealing to common sense. It is indeed a real satisfaction to see a compromise about to come into force on a new institutional framework for the EU 27; this after ten years of discussions between member states following the so-called “Amsterdam leftovers” and the disappointing results of Nice. The Lisbon agreement does open the way for a stronger focus on the concrete policies that the EU needs to develop in order to become the true global actor that it desperately needs to be at the dawn of the 21st century. However, there are two pitfalls to avoid in any wholehearted adoption of the “Europe of results” approach.

THE LEGITIMACY OF THE EUROPEAN PROJECT: A QUESTION NOT YET SOLVED

The first one lies in the risk of underestimating the EU’s structural problem of legitimacy. The Treaty of Lisbon will help salvage the European construction’s elite-driven momentum, but will it succeed in engaging European citizens too? The French and Dutch rejections of the Constitutional Treaty were not only the product of an unfavourable economic and political context. They were also the manifestation of more than two decades of lukewarm public opinion support for the European project, as clearly shown by Eurobarometer surveys.¹ It is undoubtedly true that “producing results” at the European level will help improve the EU’s “output legitimacy”. But beyond this, there are two other questions that need raising: what kind of results will the EU deliver, and how? If today 58% of European citizens support their country’s membership in the European Union – which is a low figure but better than in previous years – only one-third think that their voice is heard in the policy-making process.

As long as the uncontroversial objective of peace was the main thread of European integration, the “permissive consensus” that characterised the relationship between European citizens and elites was perhaps viable. Today, as integration has continued to progress in

1. Eurobarometer surveys which showed support for European Union membership rising pretty steadily from 1973 to reach a peak of 70% in 1990, show it falling after this date to fluctuate around 50% today.

various policy fields, the traditional debates about “more or less Europe” are often complemented by issues such as “more or less regulation of the market” or “more or less of a link between economic and social aspects” – in which the analysis divides along “left-right” axes familiar from national politics. The EU is now involved in redistributive policies that create winners and losers. This change raises the question of whether a further democratisation and politicisation of the European debate might also improve the “input legitimacy” of EU policies. It would certainly be counter-productive to try to reach this goal by applying a model of politicisation that is unsuited to the specifics of the EU’s institutional architecture and the nature of its current and future political project. At the same time it is imperative, if the European integration project is to be sustained, that citizens feel they can influence not just the pace of integration but also its content, and that they can do this through a recognisable democratic process (representative and participatory).²

Without this, there is a risk that citizens will reject the system as a whole, as occurred in France at the time of the referendum in May 2005. Most supporters of the “no” camp felt that the European constitution would determine the Union’s political orientations for a long time to come and chose therefore to reject the entire document – even though in so doing they were halting the movement towards integration, which, paradoxically, many claimed to support. The Union is hindered not so much by a democratic deficit as by a failure of democratic praxis in the European public arena. National political leaders – ready enough to use Europe as a scapegoat – have not succeeded in keeping the people alert to what is at stake in the European debate, beyond moments of “high drama” such as referendums. In that regard, the coming June 2009 European elections are an important *rendez-vous* that should not be missed.

The Treaty of Lisbon contains an important innovation that should not be sacrificed on the altar of intergovernmental pragmatism – the election of the Commission president by the European Parliament. The next troika of presidencies – and most likely the French Presidency if the Treaty of Lisbon is ratified as foreseen in January 2009 – will indeed have the task of concluding the Council negotiations on who to appoint to the new posts of permanent European Council President and High Representative for External Relations. As these nominations will have to strike a delicate balance between different political, geographical and institutional sensitivities, it will be tempting for the Council to try to reach a global agreement on a trio that will include the Commission President. Even kept as a pseudo-secret, this would be very damaging for the credibility of the Treaty of Lisbon’s new mechanism to choose the Commission President and would deeply undermine its potential to raise the stakes of the European elections. In that respect, *Notre Europe* still pleads, as its European Steering Committee did in 1998, for each European political party to propose a candidate for the post of Commission president during its campaign for the European elections.

2. On the debate about the relevance and nature of further politicisation of the European public debate, see the synthesis realised by *Notre Europe* on the basis of an exchange between Simon Hix, Stefano Bartolini and other experts: <http://www.notre-europe.eu/fr/axes/visions-deurope/travaux/publication/politisation-bon-ou-mauvais-remede-pour-lunion>.

The importance of “input” legitimacy for the EU also implies that communication on the Reform Treaty should be made with the European elections in mind, and that it will be necessary to highlight and explain the new instruments that are established by the treaty in order that citizens can better participate in EU decision-making. The Trio Presidencies should encourage the member states to insist on the extension of the European Parliament’s powers by means of the quasi-generalisation of the co-decision procedure; they should also press for movement on the new “citizen’s initiative”, and on the “Orange Card” mechanism planned for national parliaments. Taken as a way for national parliaments to be an active part of public debates on European issues and not as a tool for a systematic and restrictive interpretation of the notion of subsidiarity, the “Orange Card” could become a useful instrument to engage citizens and the media more frequently in the EU policy-making process.

A NEW EUROPE IN A NEW WORLD

The second risk of the “Europe of projects” approach is of missing another important cause of the current crisis of legitimacy: the feeling that the European construction is losing its way. Will the different policy achievements add up to a project that will be capable of demonstrating clearly why the EU is relevant in a global world and what makes a common European project worth fighting for? Today’s citizenry and political groupings are not the same as those in place 60 years ago and the geopolitical and economic environment has drastically changed. The effects of globalization muddy the waters and give rise to contradictory reactions: for some they diminish the relevance of the regional tier, for others they expose the inadequacies of the Union’s protection capability. It is essential that the EU finds its own compromise between openness to the world and defense of its economic and social model, in a way that stops looking like a permanent race to keep pace with the rest of the world.

The EU should be proud and strive to be the “continent of quality” in a world of quantity – i.e., quality of services and products, and quality of life. These qualities go hand in hand and are the only way for the EU to remain an actor that counts on the global scene. Is the Reflection Group – set up by the European Council in December 2007 and meant to work mainly during the next trio of presidencies – the place where this new European project will be defined? It may be the starting point. But there must be a moment when all European citizens feel involved in an open debate about where their European future lies. This will not be done via a succession of European Council decisions behind closed doors. One should not forget that the Reform Treaty is first and foremost the result of the work of a Convention, composed of representatives of national governments as well members of the European and the national parliaments, and open to the public, civil society and the media.

The Convention approach, with its strengths and weaknesses, has been a crucial step towards a democratisation of the treaty revision process. If the Reform Treaty is ratified,

it will even become the “ordinary” process adopted for any far-reaching revision. While recognising the merit of a “group of wise men” able to step back and think about EU’s future, one cannot escape the feeling of having gone backwards in terms of opening up European issues to wide public debate. The reflection group could be given the task of thinking about the mandate of a Convention on the future policies of the Union that could take place after the European elections.³ This should not be conceived as a gathering that would lead to another fundamental revision of the treaties, but rather as an occasion to bring to the attention of the public – and to associate them with – a common European project that will keep the EU relevant in the 50 years to come.

3. On the strengths and weaknesses of the Convention model, see *Revising the European Treaties: the Convention Moment*, by Gaëtane Ricard-Nihoul on the basis of the contributions of a working group.

A CALL FOR A MORE POLITICAL EUROPE

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The EU produces a great deal of policy that affects the everyday life of citizens in many ways. But there is still precious little democratic politics to back it up. The gap between policy and politics has become wider, despite efforts to introduce more democracy to the European political system. Direct elections to the European Parliament, coupled with more co-decision, have so far largely failed to create a European public space. On the other hand, the gap between policy and politics has been growing wider at the national level too, but in the opposite direction: the tone of public debate often suggests that the nation state has much more autonomy of action than is the case.

The continuous expansion in terms of EU membership and the policy functions of regional integration, new economic conditions and unequal distributional effects: all these factors have changed some of the fundamentals and stretched the limits of an elite-driven process. National elites have lost much of their legitimacy, while the permissive consensus on which the celebrated common European home was being built no longer looks solid enough. European citizens are not prepared to give their political leaders *carte blanche* on new initiatives.

CHALLENGES ASKING FOR A POLITICIZATION OF EUROPEAN ACTIONS

The debate about further politicization of European integration has been gathering momentum. European integration (and globalization) is increasingly affecting and often constraining national policies and social contracts. It is also having distributional effects. There are choices to be made concerning Europe's global role and the projection of common interests and values in a rapidly changing world where size matters. There are also choices to be made in the exercise of "soft" and "hard" power in international relations.

The same applies to the management of the internal market and economic regulation, be it about competition policy, financial stability and moral hazard, or the protection of the environment. These are not issues that can be dealt with exclusively by technocrats. Economic regulation is, after all, not always free of distribution effects. And there are also choices to be made concerning macroeconomic management in the eurozone, notably the mix between fiscal and monetary policy.

Last but not least, there are choices to be made concerning the European dimension of social policy, at a time when the old, implicit division of labour between European

and national institutions is no longer politically tenable. With inequalities growing more within countries than between them, the EU cannot be seen just as an agent of liberalization, while national institutions take almost exclusive responsibility for welfare and redistribution. For Europe to be an effective agent of reform, it needs a stronger caring dimension. This can be achieved through measures that work in a complementary fashion with national ones, instead of trying to pursue the old approach towards harmonization or the adoption of minimum standards – that often leads nowhere, given the wide diversity of national conditions.

These are choices that cannot be debated and dealt with exclusively at the national level. In other words, there is a mismatch between economic reality, broadly defined, which is becoming increasingly European and global, and the still predominantly inter-governmental nature of EU politics. This is another way to describe the gap between policy and politics. Something needs to be done about it.

PROPOSALS FOR A MORE DEMOCRATIC UNION: PREPARING THE 2009 ELECTIONS

Of course, politicization cannot be ordered from above. There are European issues that have already become highly politicized. One example is the liberalization of services, famously personified by the Polish plumber. Another is enlargement, and so is globalization. All these issues offer plenty of opportunities to demagogues. Politicization at the European level may indeed lend itself more to populist rhetoric. This is a risk worth bearing in mind, and we should try to address it head on instead of simply hoping that it will go away on its own.

Perhaps, in the not too distant future, some bold politicians may begin to debate the big trade-offs between efficiency, stability and equity in different areas of economic policy, as well as the link (it does exist!) between such trade-offs and the division of powers between European and national institutions. In real life there are more than just economic trade-offs, of course. It should not be beyond the capacity of politicians to translate the above into simple language and present it in the form of basic political choices understood by ordinary European citizens. This is what has been missing so far, with national debates taking place independently (sometimes surreally), usually as if the EU did not exist and individual member states had significant influence over global policy outcomes.

The Union needs a breath of fresh political air; and politics means fights and faces. European citizens need more information and choices. Choices do exist, although politicians have so far failed to articulate them as choices that have both a European and a national dimension. This is where the big failure lies. We all recognize the *sui generis* character of the European political system and the strong consensual aspect of its decision-making. Long negotiations at different levels and late-night compromise deals behind

closed doors have always been a key characteristic of European integration. Yet, if this continues to be the only image that most citizens have of the EU, the result will be further alienation and more Euroscepticism, if not Europhobia.

The next elections of the European Parliament will be held in June 2009. There is a real risk of even lower turnouts of voters than before, coupled with the election of an increasing number of eccentrics – to put it diplomatically. This would constitute a major blow to the legitimacy of the Parliament, and to the process of integration in general. Citizens need to be presented with authentic choices and recognizable faces at the European level if they are to take the process seriously and not treat it as a second-order election at best. This means that European political parties must adopt common policy platforms on major issues dealt with at the level of the EU – platforms that clearly imply political choices and therefore are not limited to anodyne generalities. They may also adopt candidates for the post of the President of the European Commission to be voted by the newly elected members of the European Parliament. European citizens would then have something tangible to vote for.

Can European political parties rise to the challenge? Admittedly, such a development would further change the institutional balance within the EU, as well as the role of the European Commission in the post-Lisbon environment, assuming that ratification is successfully completed. There are serious pros and cons; and there is the risk that we are still not ready for it. But the only realistic alternative may be that the next elections to the European Parliament will turn into a major non-event. Recent elections for members of the European Parliament in the two latest entrants to the EU should provide sufficient cause for concern.

The EU, with its predecessors, has done remarkably well so far by following the step-by-step approach to integration – the experts talk about “spill-over” – while resorting to creative ambiguity with respect to the big, teleological questions, such as borders and the *finalité politique*. Such questions are likely to be raised with increasing frequency in the future, and the ensuing debate will not only involve the cognoscenti. The challenges facing Europe force upon it difficult choices, while the number of participants is testing the limits of existing structures and the gap between maximalists and minimalists remains wide. Some hard realists now argue that globalisation and enlargement have rendered such questions irrelevant. It may prove to be just wishful thinking on their part. The jury is still out.

THE MULTIPLE FACES OF EUROSCEPTICISM

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PUBLIC OPINION IN 2008: EUROSCEPTICISM EXISTS, AND IT IS GROWING

Citizens' support is crucial for the good functioning of democratic political systems, but it is a support that the European Union on a number of occasions seemingly has lacked. At least, the negative results in five of the eight referenda held in the present decade demonstrate that there are limits to the public's willingness to support certain aspects of the integration process. That there was just a single "no" vote in the eight referenda held prior to this decade suggests that there is relatively less EU support today than previously – and correspondingly more Euroscepticism.

Paradoxically, there has been little clarity about the nature of Euroscepticism. Despite its many implications, the contours and borders of scepticism have remained elusive both politically and academically. The explanation for the elusiveness surrounding Euroscepticism lies in an insufficient attention to its diverse and dynamic nature. Contrary to a remarkably persistent belief, Euroscepticism is a multifaceted phenomenon. Four independent types of scepticism exist: citizens can be sceptical 1) on economic grounds, from dissatisfaction with EU outputs; 2) on sovereignty grounds, fearing the consequences of integration for national sovereignty; 3) on democratic grounds, criticising the EU's institutional set-up and transparency; and 4) on political grounds, criticising the perceived dominant ideology of EU leaders, as recently witnessed through calls for more "social Europe" (i.e. social Euroscepticism).¹

The Euroscepticism of a country is characterised by a particular combination of these four types, and what types are prevalent differs between countries. Denmark, for instance, is characterised by a strong sovereignty-based and democratic Euroscepticism, but no pronounced economic or social Euroscepticism. France, on the other hand, displays a strong economic and social Euroscepticism, but little sovereignty-based and democratic Euroscepticism. Such differences have consequences for endeavours to communicate the EU to its citizens. Importantly, the object of one population's scepticism may be precisely what another population wants.

1. This conceptualisation of Euroscepticism is developed and explained in Catharina Sørensen (2007): *Euroscepticism. A conceptual analysis and a longitudinal, cross-country examination of public scepticism towards the EU*, PhD Thesis, Copenhagen University Press.

The explanation proposed here for cross-country differences in Euroscepticism is that populations position themselves according to different overarching visions about what the EU should be; these visions vary considerably from country to country. Put crudely, all citizens evaluate the EU's economic utility, its impact on national sovereignty, its democratic standing, and its ability to produce policies in accordance with their standpoints. In addition, the citizens have their own ideas about the extent to which the EU should be engaged, how far it may impact on national sovereignty, the extent to which it should be democratic and how it should act in relation to certain political orientations. A difference between ideals and perceptions results in Euroscepticism. In other words, Euroscepticism arises if the EU is perceived to be out of sync with one's own vision.

ANALYSING PAST EFFORTS

Following the shockwaves of the French and the Dutch "no" to the EU's Constitutional Treaty in 2005, the task of communicating the EU to its citizens has been promoted at EU level, with a commissioner specifically dedicated to the endeavour. The year-long period of reflection following the negative results was also officially declared an opportunity to listen to citizens' ideas about the future direction of integration.

At least four paths forward from the ratification crisis were aired. They are ideas that are likely to have been received very differently in different member states:

■ One call was for a new "*grand projet*" for the EU, which in its most specific version was concretised in the form of a "social protocol" to further a "Social Europe". Would this call have made the Constitutional Treaty more palatable to the member-state populations? The answer is: to some. Only in countries with a pronounced political Euroscepticism based on the premise that the EU is not social enough would this hypothetical addition have increased treaty support. As mentioned above, this type of Euroscepticism is acutely present in France. On the contrary, it is not a concern in Denmark, nor, for instance, in the United Kingdom. In these countries, a social protocol would rather have increased concerns about interference with national social policy.

■ Another recurrent idea during the reflection period was aired through the European Commission's "Plan D", where "D" stands for democracy, debate and dialogue. The focus of Plan D has been on improving the existing structures of the EU, with the explicit ambition to engage the public and "*restore public confidence in the European Union*".² I argue that Plan D's relevance is largely restricted to countries with a marked democratic Euroscepticism. Indeed, to citizens critical of the EU's ability to listen to their opinions and/or of the set-up of its institutions, democratisation initiatives and efforts by an EU Presidency to listen more may well reduce the prominence of this particular type of scepticism. However, more transparency and

2. Plan D: European Commission 2005: 3

democracy are unlikely to reduce economic, sovereignty-based or social Euroscepticism – and might even increase it. If, for example, the European Parliament had its powers increased as a result of a democratisation strategy, this might be welcomed by citizens sceptical on democratic grounds but opposed by those who are sceptical on sovereignty-based grounds.

■ Third, there were widespread calls for skipping the more symbolic references in the Constitutional Treaty – for instance to a European flag and anthem – as well as the very reference to a Constitution. These calls reflected the idea that scepticism towards the document hinged on the fear that the EU was beginning to resemble a state or a federation – in other words, sovereignty-based concerns. This can appear surprising given the finding that this type of concern is largely absent in one of the countries that rejected the Constitutional Treaty. Indeed, sovereignty-based Euroscepticism does not appear to be among the dominant reasons why the French rejected the document.

■ Finally, a prominent call during the reflection period was for a “Europe of Results”. How is this project likely to have been received in the member states? The idea to focus on the creation of day-to-day tangible results may indeed have some initial appeal, and has been advocated by Commission President José Barroso, French President Nicolas Sarkozy and Danish Prime Minister Anders Fogh Rasmussen. I shall not argue against the likelihood that if the forthcoming three presidencies were able to respond promptly and efficiently to citizens’ concerns, they would see reduced levels of scepticism. However, an immediate question that arises is where the troika should focus in order to address the concerns of citizens and make the Union respond to their needs. Energy has been declared an obvious focal area. However, a recent Eurobarometer poll showed that a majority of citizens were in fact in favour of retaining national decision-making power in this area. Moreover, Eurobarometer surveys indicate that member-state populations want EU action in very diverse fields. In Germany in autumn 2005, for instance, 74% believed unemployment to be one of the two major issues of the day; a mere eight percent shared that opinion in Ireland. 32% in Denmark mentioned terrorism; this figure was but one percent in Lithuania.

BRINGING THE EU CLOSER TO ITS CITIZENS

The main message to the Presidency Troika from this analysis is not that aspirations for a united EU which enjoys the support of a majority of its citizens are a chimera. However, the troika would do well to acknowledge what may be a chimera: the two surprisingly resistant ideas that one and the same message or campaign will appeal to all populations, and that Euroscepticism is a pathology that can be done away with. Indeed these ideas appear unrealistic in the absence of, say, a major external threat. How then can the Troika work towards bringing the EU closer to its citizens?

■ Communication must be framed according to a country’s Euroscepticism profile.

To win public support for particular EU issues, the troika needs to abandon the aspiration of pan-European communication concerning the EU's activities; instead communication must be targeted to the particular Euroscepticism situations of individual member states. If, for instance, there is economic Euroscepticism in a country, as is the case in France today, communication efforts achieve the greatest impact if they are framed around the economic opportunities that arise from a proposed issue and the EU's related role. In the absence pronounced economic Euroscepticism, such framing is unlikely to have a strong impact.

■ If communication is not targeted, it may be counterproductive.

Not only will focusing on arguments that are not the main concern of citizens fail to resonate and to bring about more EU support, it may even provoke the opposite result to that which was intended. As an example, take a population that worries about the impact of the EU on national sovereignty (sovereignty-based Euroscepticism), but does not worry about the EU's democratic standing (lack of democratic Euroscepticism). To this population, efforts to communicate to citizens that a policy has been achieved through consultation with the European Parliament are likely to raise more concerns about the extent of supranationalism in the Union than they are to make citizens more supportive of the policy. Sweden and the United Kingdom are examples of countries with a Euroscepticism profile of low democratic Euroscepticism and strong sovereignty-based Euroscepticism.

■ Bringing the EU closer to its citizens does not immediately mean less Euroscepticism.

It is advisable to keep in mind that some types of Euroscepticism have existed as long as the EU itself, and are as unlikely to go away as it is unlikely that all citizens in a democratic country will back a particular government. Certainly, not all EU policies are likely to enjoy popular backing in all of the Union's member states. This is not a pathology, but "merely" an inherent feature of democracy. Bringing the EU closer to its citizens does not equal decreasing Euroscepticism, at least not immediately. There is certainly no guarantee that efforts to communicate specific policies that take into consideration the particular Euroscepticism profile of a country will succeed in convincing their target group. However, such communication is at least likely to take place closer to the actual concerns of citizens, which in the longer run is a precondition for turning today's tide of Euroscepticism. This kind of knowledge about the specific varieties of Euroscepticism in EU countries will assist in fulfilling the presidency troika's wish of bringing the EU closer to its citizens. Put more simply: if you want to sell a policy to EU citizens, know who you are talking to, and what their worries are.

THE STRUGGLE FOR EUROPEAN DEMOCRACY

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During the long period leading to the adoption of the Reform Treaty, the EU leaders spent much time on institutional matters: there was a genuine need to reform then. Although the motivations for the Constitutional Treaty and later the Reform Treaty seem quite clear and understandable, a certain question has been neglected: European citizens' support for the whole situation. Despite the many proclamations to bring the citizens in, not much has actually been achieved. What has been done has been met with fairly limited success; and more has been done on paper than in practice. It must be recalled that the Convention was launched with the aim of bringing the EU closer to citizens, and to make the Union more democratic and understandable. The very opposite has happened: there is no real simplification, and not that much more transparency. European democracy may be strengthened on paper but it is far from functional in practice. This may turn out to be extremely problematic, taking into account that a citizen's (voter's) voice cannot be – if only for pragmatic reasons – be ignored. The basic question is: in what way should the EU listen to its citizens, and in what way can the EU keep this “listening exercise” effective?

WHAT HAS BEEN DONE TO MAKE EUROPE MORE DEMOCRATIC?

When France and the Netherlands voted down the Constitutional Treaty, it should not have been a surprise. Given the number of referenda planned, it was only question of time when the first “no” would come. The example of Denmark can attest to this... It is elementary mathematical logic: the more referenda, the higher the chance of a no. In this understanding, the importance of these two votes was symbolic: it showed firstly that citizens' opinions (or their votes?) must be taken seriously, and secondly that the EU (in this case the Constitutional Treaty) was not comprehensible – because citizens of the two countries had totally different reasons for voting no. It is important to stress that their reasons often had little in common with the text that was the subject of the referendum.

The period of reflection that followed was meant to encourage a broad debate in each country about the EU, focused on involving citizens, civil society, the social partners, national parliaments and political parties. In July 2005, an action plan was adopted that defined measures on how to improve the EU's communication with its citizens (for instance, by having documents available in all languages, by presenting the EU institutions better, etc.). In October of the same year, as part of this initiative, the Commission released a communication outlining a so-called “Plan D”, for Democracy, Dialogue and Debate. The objectives of Plan D were to stimulate a wider debate between the EU's

institutions and citizens, thereby seeking recognition for the added value that the EU can provide while promoting citizens' participation in the democratic process. The Plan was not focused specifically on support for the European Constitution; instead it was aimed at restoring public confidence in the European Union as a whole. Another important milestone was the publishing of the White Paper on a European Communication Policy, presented by the Commission in February 2006. The Paper was to complement the Plan D.

WHAT IS THE PROBLEM WITH EUROPEAN DEMOCRACY?

Support for EU membership currently runs at an average of 58%, which is not a bad figure. Citizens do feel that their countries have benefited from EU membership. In general their main concerns are – not surprisingly – unrelated to issues of European democracy. However, many of their more common concerns can be addressed at the European level. The priorities of EU citizens can also indicate which fields of co-operation the EU should focus on – the fight against terrorism, environmental protection, scientific and technological research, energy, to take a few. Nonetheless, a very low proportion of EU citizens feel that their voices are heard in the European Union. Given the simplicity of many of their messages, a more attentive approach by EU is a way to bring the Union closer to its people.

The problem is the inefficiency of the way the EU is currently trying to bring citizens into its processes. Organising citizens' fora, launching websites, etc., is to be applauded, but in these cases the target groups are highly selective. There are other means, indirect but far more effective, by which citizens can be attracted into the decision-making (or constitutional) process.

WHAT CAN BE DONE ABOUT EUROPEAN DEMOCRACY?

There are two basic options for making Europe more democratic and closer to its citizens. The first is to continue the present style of European democracy - i.e., the current form of communication policy, which involves organising citizens' fora and discussions with citizens, and creating attractive websites and blogs, etc. A second option focuses instead on the more indirect means of European democracy: more emphasis can be placed on knowledge about the European Parliament and the new role of national parliaments, on explanation of the subsidiarity principle and the rights attached to European citizenship. This second option does not mean excluding the "selective" approach to communicating about the EU; this is of course needed as well. It is a question of priority.

In the effort to make European democracy work better and to bring the EU closer to the citizens, the main principles that have been laid down are well defined. However, their potential is not exploited. Direct forms of European democracy are needed, but due to their

poor effectiveness, emphasis should be given to indirect principles – more focus should be placed on the European Parliament elections, to encourage a higher turnout. European institutions have suffered a significant loss of trust among EU citizens recently. This is a pity because support for membership is increasing. There could and should be a parallel in these two forms of support! It is also necessary to better explain the rights connected to EU citizenship (the right to petition and to complain to the European Ombudsman, for example). The Citizens' Initiative should be better publicised. It needs to be explained that national parliaments are directly involved in the work of the EU in their monitoring of the application of the subsidiarity principle. Furthermore, national parliaments must take more advantage of this fact: they are becoming crucial national actors in promoting EU democracy. As for the European Parliament, its involvement must not be only rhetorical, it must be real. Citizens must be reminded of their right to consult Council, Parliament and Commission documents. Local NGOs can be used to deliver the EU's message. And an element of fun can be added to these measures: websites such as EUtube and similar good examples of what might be done.

Public debates are still needed. But in order to make them more effective and appropriate, they need to be conducted at the national level. Brussels-based events of this nature are expensive relative to their impact. It is crucial to localise one's message: local NGOs can and should play an important role.

The French, Czech and Swedish Presidencies have a great opportunity to include the issue of European democracy in their programmes – even if it does not constitute a separate chapter among the priorities (currently the case). More importantly, the overall approach dealing with a whole range of "other" topics should fit with basic principles for making the EU more democratic and more citizen-friendly. Method is all-important.

The issue of European democracy became a priority following the failed referenda on the Constitutional Treaty in two countries. There will only be one referendum on the Reform Treaty. This fact (one referendum, in a small country) is not an excuse for neglecting the issue of EU democracy in the future. European democracy is a far-reaching problem that must be dealt with without regard to current political developments.

DELIBERATIVE DEMOCRACY – LESSONS FROM THE RECENT PAST AND WAYS FORWARD FOR THE EU

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The forthcoming three presidencies will be required to position themselves vis-à-vis the Commission's communication initiatives. In particular, Margot Wallström announced on April 2 a "Debate Europe" plan for 2008 and beyond.¹ The centerpiece will be a pan-European consultation of citizens in 27 member states with the presentation to decision makers of "a common set of conclusions at European level." A raft of other initiatives is announced, including "Citizens' fora" in the member states, and closer coordination of such citizen consultation initiatives between EU institutions. At the very least, the presidencies will be informed of these initiatives and may be asked to comment on them. Depending on how the Commission intends to treat the initiatives, they may also be asked to demonstrate how citizens' "recommendations" impact the course they give to EU policy making and how they intend to support, or not, such initiatives.

In the light of recent transnational citizen consultation exercises, and ahead of future initiatives, this paper questions whether past experiments have been of use. It argues that recent transnational deliberation initiatives at the EU level failed to influence EU policy making and suggests concrete measures for forthcoming EU Presidencies to ensure that transnational citizen consultation contributes usefully to EU policy making and integration and becomes more truly "deliberative".

VOICE OF EUROPE – WHAT ROLE FOR TRANSNATIONAL DELIBERATION AT THE EU LEVEL?

Clearly, in reaction to the on-going criticism of a purported "democratic deficit", the normative view of EU policy making has been influenced over recent years by the notion that legitimate lawmaking arises from the public deliberation of the citizenry, as compared with the traditional theory of democracy, which emphasises voting as the central mechanism in democracy.

In this respect, EU institutions seem at first glance to have been influenced by what political theorists refer to as "deliberative democracy" philosophy. Evidence of this trend can be found in official documents and activities.

1. Communication "Debate Europe – Building on the experience of Plan D for democracy, dialogue and debate", COM(2008)158/4

Fundamentally, *Notre Europe* welcomes EU institutions' interest in citizen consultation, as it believes that a rational, human and democratic society requires the institutionalisation of the potential for rationality that is inherent in the communicative competence that characterises humans. Yet, a wide gap separates the normative principle from actual implementation. High quality deliberation that serves democracy's needs does not occur naturally. *Notre Europe* has long argued in favour of high quality transnational deliberation, seeking in particular to identify the short-comings of traditional as well as innovative approaches to debating, and to outline the features which would make for improved public debate at the EU level.²

In this perspective, it is worrying that the role ascribed to "deliberation" in the EU policy-making process remains unclear. Official EU statements fail to clarify how the dialogue with citizens is meant to be structured, and how it is linked to policy-making. Beyond official statements, the current political context is worrying, rather than encouraging:

■ *Citizens are – still – feeling deprived of a meaningful say over the EU's future.* Because the Treaty of Lisbon is likely to be ratified without referendum in all but one country, and because it saves much of the draft Constitutional Treaty, there is a feeling – warranted or not—that citizens were denied a say in the process. The Convention method was dropped for the revision of the Treaty. While we feel that it should be used again and improved on, this is unlikely to happen in the foreseeable future.

■ *The EU still lacks a deliberative infrastructure.* As argued by James Fishkin, proponent of deliberative democracy, "there is a basic, and recurring problem of public consultation – if we ask elites, we have deliberation without political equality. If we ask the people directly, we can have political equality but usually without deliberation."³ Today, we possibly have an emerging deliberative infrastructure for the EU, but it is tentative, frail, and sub-optimal.

Furthermore, the new Treaty introduces the European Citizen Initiative (ECI). While this should also be welcomed, deliberation remains a crucial complement to traditional forms of policy- and decision-making, as well as of direct democracy (including a possible future EU referendum). As French historian Pierre Rosanvallon argued ahead of the French 2005 referendum, "The problem is not whether you are for or against the referendum. What is decisive is the quality of the attendant debate." This will also be true for future ECI campaigns. Without a quality debate, populism lies in the shadow of citizen "participation" and "consultation".

■ *Beware of deliberative frustration and fatigue.* Recent enthusiasm for dialogue with citizens is welcome. However, raising citizens' expectations by telling them that their

2. Stephen Boucher, *Democratising European Democracy – Options for a Quality Inclusive and Transnational Deliberation*, *Notre Europe*, Policy Paper n°17, 24 Nov. 2005

3. James S. Fishkin, *Why Deliberative Democracy Can Help the EU Address its Democratic Deficit*, speech, 14 September 2007 <http://www.tomorrowseurope.eu/spip.php?article102>

voice will be heard can lead to misunderstandings and frustration. What does “being heard by the EU institutions” mean? A populist interpretation would translate this into “the ability to influence the course of the EU’s future and to shape of its policies”. Multiplying deliberative events to little or even no avail could also lead to “deliberation fatigue” on the part of citizens, the media and policy makers. This is a pitfall common to all initiatives intended to be “participatory democracy” but lacking rigorous methodologies and clear goals.

The experience of the past few months suggests that “dialogue” and “consultation” are perceived as inherently beneficial. However, their form and goals remain to be defined explicitly.

A number of recent consultation processes with a clear transnational component can be identified. However, even a brief inventory and description of each process indicates that we are still far from having created a true EU deliberative democracy.

Seven initiatives were organised in 2005-2007.⁴ Transnational citizen consultation initiatives are fast increasing in number, with significant resources dedicated to each. Clearly, transnational citizen consultation which *potentially* feeds into EU policy making has been tried. And, apparently, it will be tried again, as DG Communication of the Commission suggests. However, a cursory examination of the processes raises concerns.

The recruitment of participants was of varying quality. Some were careful to generate an in-depth exchange of arguments, but few achieved this, qualifying more as debates than as “deliberations”. Nearly all were transparent: the media and outside observers were invited, and present to some extent. Few however generated significant media coverage. Last but not least, some provided potentially added-value information for decision makers – but, as far as we can tell, few politicians really paid attention to any of the results.

An unavoidable conclusion is that transnational deliberation has failed so far to affect policy-making significantly. It has barely been registered by the media. The overall cost was significant.⁵

4. RAISE, Dec.2005, Topic: “the city of tomorrow”. Consensus conference model. www.raise-eu.org
Meeting of Minds, 2004-06, 126 citizens from 9 countries on brain surgery. Consensus conference model. www.meeting-mindseurope.org
European Citizens Panel on the Future of Rural Europe, 2006 – April 07, Focus group discussions, using a methodology similar to consensus conferences, citizens from 10 European regions to discuss the future of rural Europe. www.citizenspanel.org
European Citizens’ Consultation, 2007, 27 national debates held before a “citizens’ summit” in Brussels in May 2007. www.european-citizens-consultations.eu
Tomorrow’s Europe, 2007, A pan-EU deliberative poll with 362 participants from all member states. 12-14 October 2007. www.tomorrowseurope.eu
European Agora, 2007, European Parliament, 400 people from civil society organizations, 8-9 November 2007 www.europarl.europa.eu/agora
The Future of Europe – The Citizens’ agenda, 2007, 7-9 December 2007, 200 participants from 6 plan D events http://ec.europa.eu/commission_barroso/wallstrom/communicating/conference/dialogue/index_en.htm

5. A conservative guesstimate puts the figure at €6m for the four most recent deliberative experiments: 4m for the ECC; 1.5 for Tomorrow’s Europe; several hundred thousand for the EP and Commission events.

HOW TO MAKE EU DELIBERATIVE DEMOCRACY MORE THAN A TALKING SHOP

Although the period of “reflection” has come to an end, and despite the less than enthusiastic assessment above, we argue that reflection and deliberation should be an on-going process. The fact that in a few months the EU institutional framework will be changed, and official and political representatives renewed, should not put into question the objective of better involving citizens in policy making. Also, the limits of citizens’ involvement so far should not be a cause for pessimism, but rather a reason to learn from the past and develop better practices.

In line with EPIN’s (European Policy Institutes Network) 2005 recommendation of a Citizen Compact, *Notre Europe* argues today that transnational deliberation should be further analysed and given a clearly thought-through role in EU policy-making. It requires clear objectives, a well-defined role in EU policy-making, and quality methodologies. The Commission was right to invite different projects to test different ways to consult citizens and hear their views. It should now assess methodologies according to clear criteria: which methodology (or methodologies) provides real added-value information to citizens, the media and policy-makers?

A form of institutionalisation in this respect is necessary, bringing together at least the EP, the Commission, and the Council (absent so far from the deliberation “trend”). Indeed, quality transnational deliberations cannot be conducted without EU institutional support, because of the costs involved – and also because without serious involvement and commitment, buy-in is unlikely. Quality citizen deliberation indeed does not come cheap. However, inter-institutional cooperation would make sense as it would allow a number of costs to be significantly reduced: interpretation, staff, and communication costs in particular, as these costs could arguably be absorbed by EU institutions as a trade-off between different activities.⁶

Inter-institutional cooperation is also consistent with the Commission’s desire to foster greater coordination of EU communication through an IIA: “*EU institutions should pursue a more coordinated and citizens-oriented approach.*” Plan D advocated “*strengthening a partnership approach with other EU institutions.*”

However, institutionalisation should not be conducted only with EU institutions. National parliaments, the EESC and CoR, and civil society organizations should play a role. *Notre Europe* therefore proposes the establishment of an Observatory for European Public Opinion and Deliberative Democracy. As the Commission proposed, an Observatory for

6. NB – 2007 EU budget for communication : €201m ; fostering European citizenship : €32m, including 21m for “Europe for citizens”

EP: Organisation and reception of groups of visitors, Euroscola programme and invitations to opinion multipliers from third countries; 26 618 000; Organisation of seminars, symposia and cultural activities: 1 650 000

European Public Opinion would make sense. As argued by the EP, its scope needs to be broadened (paragraph 41 of EP Herrero report) to cover the information dimension (para. 42). This body could:

- Accumulate knowledge on opinion-polling and citizen-consultation methodologies, and provide ECI support.
- Coordinate and pool resources, as well as expert networks, both at the national and EU level, and with civil society.
- Develop proper assessment criteria and conduct impact assessments of innovative opinion-polling methodologies and citizen consultation exercises.
- Conduct secondary analysis of existing data (as suggested by the Bergamo conference conclusions).

Pragmatically, *Notre Europe* also warns against a proliferation of events. This would be costly, and would reduce everyone's interest. Rather than a peppering of sub-optimal deliberative events, it would be better to organise one quality event per year – linked for instance to a European Council meeting, and focused on a salient, controversial issue, fundamental for the EU's future. For all the reasons that led *Notre Europe* to organise a Europe-wide deliberative poll, and in light of its record, *Notre Europe* suggests the organisation of a yearly deliberative poll. These qualities include:

- A rigorously random recruitment process.
- Great care in balancing political arguments and in creating a space for a real exchange of arguments.
- Respect for the variety of opinions present, providing added-value information for decision makers. Deliberative polling does not seek to forge a consensus. As indicated by other Plan D events, consensual recommendations emerging from citizen focus groups and debates are of very limited value, other than symbolic, for policy makers.

There are major unresolved issues in the coming months on which the EU will have to take a stance. Ensuring citizens are properly heard will require more than EU support for debates organised externally. It will require commitment on the part of EU institutions, as well as clear goals and methodologies.

TROUBLES AHEAD – CAN THE EU AGREE A BETTER WAY OF NEGOTIATING ITS BUDGET?

Sara Hagemann, Policy Analyst, EPC
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Will the 27 EU member states, together with the Commission and an enlarged European Parliament which is set to receive further budgetary powers, ever be able to come to an agreement on a new EU budget? And, equally important, would such an agreement provide an effective basis for meeting the EU's political priorities?

These are the questions underlying the current review¹ of the EU's multi-annual budget². With the initial consultation phase completed by mid 2008, the real debate about what changes will be implemented is likely to be a major issue in the coming EU Presidencies at the end of 2008 and throughout 2009.

The budget review is not expected to result in radical changes to the 2007-2013 financial framework. Rather it is the need for serious reform of the subsequent multi-annual budgets which is driving the process. It is a testing ground for how far the member states are willing to go in future negotiations. The Commission will have to maintain a difficult balance between significant reform of the budget and the need to ensure the consent of all 27 governments.

But significant reform is necessary, as the EU budget must address many new challenges. One of the most crucial questions is whether the process by which the MAFF is negotiated can be reformed. This goes beyond the simple legal decision-making procedure. Rather, the whole process, which includes informal agreements, negotiation tactics, habits and commonly understood principles, as well as legal processes, needs to be assessed. Past experience has shown that, even with the best intentions at the outset, the process becomes dominated by narrowly defined sectoral and member states' own national interests and as a result it is difficult to arrive at a priority-driven budget.

DIFFICULT NEGOTIATIONS, INEFFICIENT RESULTS

Last time around, in the negotiations for the budget deal for the 2007-2013 MAFF, many were worried that an agreement might not be reached at all. The negotiations required significant diplomatic skill and a certain willingness to compromise, not least from the

1. The Commission's discussion paper 'Reforming the budget, changing Europe', published in September 2007, can be found here: http://ec.europa.eu/budget/reform/library/issue_paper/consultation_paper_en.pdf
2. Known as the multi-annual financial framework (MAFF).

then EU Presidency of the UK. It resulted in a last-gasp deal reached in late 2005; most of those involved have since recognised that the result in terms of both outcome and process left almost everyone dissatisfied. Necessary reform of several areas was stalled due to the need to reach a consensus agreement.

There is no doubt that future negotiations will be at least as difficult. The Union now has 27 governments around the table, each with veto powers and each fully engaged in the negotiations. There is increasing pressure to meet new and different priorities not currently reflected in the budget. Left-over problems from previous negotiation rounds are also becoming impossible to ignore.

While almost everyone agrees that the current budgetary structure is not ideal, there is little hope that the EU will see a significantly better budget agreement in place for the post-2013 period. The current decision-making structures that guide the negotiations, and hence impact significantly on the resulting agreement, will most likely result in a sub-optimal outcome yet again.

There is a strong status quo bias in the current process, mainly influenced by the dominance of narrowly-defined national interests in the negotiations. And many governments have strongly expressed “red lines”, i.e. areas on which they are unwilling to compromise. There is also little transparency in the process, and the relationship of the final outcome to the expressed policy priorities of the EU tends to be tenuous.³

To ensure that the EU budget relates to EU policy priorities, there must therefore be a profound reform of the decision mechanism which shapes the budgetary agreement in the first place. The rest of this paper will highlight some key issues which define the current negotiations, and then review the likely impact of the changes in the Lisbon Treaty, if ratified. We conclude by highlighting the areas in which change is essential to ensure a better EU budget agreement in the future.

IMPLICATIONS OF CURRENT DECISION-MAKING PROCEDURE

The current decision-making procedures are dominated by member states. But the member states are often constrained by internal decision-making processes prior to their presentation of country positions at the EU level, which in effect constrains the political mandate to negotiate at the bargaining table in Brussels. This is especially true in member states characterised by different levels of governance each having significant influence on budgetary negotiations, and in member states with multi-party systems and strong parliamentary committees.

3. Please see Zuleeg and Hagemann ‘A bigger bang for our euros: how to reform the EU budget’, January 2008, for further details (http://www.epc.eu/TEWN/pdf/29000018_Bigger%20bang%20for%20our%20euros.pdf)

In the current set-up, the demands on member state negotiators are often very high in terms of bringing back evidence of success to their parliaments and constituencies. The measure of success is often reduced to the best possible monetary deal in terms of net contributions (so-called *juste retour*), rather than focusing on the wider policy priorities. This can be aggravated if the member state negotiators at the EU level are tasked with focusing on public finances rather than higher-level policy priorities. Especially for the larger member states which contribute significantly to the budget, the pressure not to compromise can be very strong.

The focus on *juste retour*, and the reluctance of any member states to consider any additional funding for EU-level priorities, impacts on the likelihood of reaching a deal. In effect, it turns the negotiations into a zero-sum financial game, where any expenditure allocated to a specific country must reduce another's and where any additional funding for one policy area must reduce the funding in others. With 27 veto powers to appease, there is a strong bias towards the current status quo, with the existing budget seen as the benchmark against which the outcome is compared.

The existing decision-making structures also mean that there is little representation of the EU common good from the outset, with limited influence by the Commission and almost no involvement of the European Parliament. Of course, political choice explains the fact that EU budget negotiations are characterised purely by intergovernmental bargaining, but it is unlikely that this choice will lead to the effective identification of which EU public goods and policy priorities should be financed and delivered at the EU level.

This bargaining structure will furthermore lead to skewed negotiations, as only certain interests are represented by the member states. For example, the interests of students in studying in other EU countries are unlikely to receive representation equal to the interests of farmers. It also leads to a general undervaluation of European public goods, since the wider EU common good is incompletely represented in the negotiations. In addition, there is a prevailing tendency to focus only on areas where the EU already has competencies and expenditure, rather than considering wider priorities. This creates difficulties in dealing with new priorities, an issue that is aggravated by the current somewhat rigid budget structure, which fixes expenditure in budgetary posts.

Timing and sequencing of budget negotiations are also crucial. Negotiating expenditure, revenue and strategic priorities behind closed doors as a "package" almost guarantees that most attention is focused on net contributions. Member states have a significant incentive to pre-empt the negotiation by reaching agreement on significant expenditure areas before the negotiations, further limiting the responsiveness of the budget to changing policy priorities.

The focus on *juste retour* also has a negative impact on the effectiveness of spending. To try to determine *ex ante* how much each country will receive in expenditure is to tie spending to certain policy area, regardless of changing circumstances and needs, or how

the money is spent. While funding can be made conditional on results, this entails a heavy administrative burden. In a modern, interdependent economy, earmarking expenditure for countries or regions is also increasingly meaningless, with companies and individuals operating across borders and benefiting from spending elsewhere.

Finally, there is little connection between the budget process and political processes at the European level. With the limited role of both the Commission and the European Parliament, and no synchronicity of the budgetary cycle with election or appointment cycles, there is no real political responsibility, legitimacy or accountability for the budget at the EU level.

BUDGET PROVISIONS IN THE LISBON TREATY

The new Lisbon Treaty, if ratified, foresees that the multi-annual budgetary agreement becomes legally binding, and thereby increases its formal weight as a budget planning mechanism. A new provision furthermore stipulates that:

“Where no Council regulation determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until *such time as that act is adopted*” (Chapter 2, Article 270a).⁴

This is likely to reinforce the status-quo bias when this new legal base enters into force. When this provision will come into force is somewhat uncertain but most likely it will already apply to the current financial framework rather than to subsequent financial perspectives. This would imply the continuation of the budget from 2013 if no agreement has been reached by the end of that year.

If this is the case, that would mean that the reference point for many member state negotiators will be the final expenditure in 2013, which will differ significantly from current spending or from average spending over the full financial perspective 2007-2013. In particular, the balance of agriculture spending between old and new member states will have changed significantly.

There are three further changes in the Lisbon Treaty which might affect the debate and negotiations over the next few years.

First, the Treaty defines that the budgetary framework must cover at least a five year period, but does not stipulate the exact duration or the alignment of the budget cycle with the political and policy cycles of the EU.

4. Treaty of Lisbon, Official Journal of the European Union, December 2007. Available on: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:0042:0133:EN:PDF>

Second, and linked to the above point, the Treaty now formally mentions the European Parliament's powers in the multi-annual budgetary negotiations and stipulates that *"The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members"*. It remains to be seen how this provision will take effect in practice. Even under the new Lisbon Treaty rules, the Parliament still has a limited influence, since it merely has to give its consent by a simple majority vis-à-vis the European Council's unanimity rule. But there is little doubt that in future the European Council will be under greater pressure to take into account the Parliament's decisions on size and expenditure, since it will be difficult to significantly change a Parliament proposal presented prior to the Council agreement. And MEPs involved in the budget will surely not miss the chance to make use of these increased powers.

Third, one aspect not included in the new Treaty is how to finance policy initiatives evoked under the newly introduced enhanced cooperation mechanism. Much uncertainty still surrounds the question of which policy initiatives could be introduced first under these rules. However, the decision on how to finance any such policies will be left until after the final agreement on a new multi-annual budget – which could cause longer term problems for this policy mechanism.

Overall, the new Lisbon Treaty is not likely to "fix" the underlying issues with the budget decision-making processes, outlined above. While some of the provisions might enhance the role of the European Parliament, others are not yet sufficiently detailed and the Treaty could even reinforce the current status quo bias.

SO WHAT CAN BE DONE?

The delivery of a new EU Treaty by 1 January 2009 and, shortly after, of guidelines for a new EU budget, could represent the beginning of a new phase in the European integration process. But there is a lot of work left to do before either of these important steps can be concluded successfully.

This paper has outlined a number of issues which should be considered in the budget review process, noting the need for reforming budgetary decision-making procedures to deliver a budget which fits with EU policy priorities. In order for both member states and the EU as a whole to win in the long run, governments should not regard the current review process as a Commission responsibility prior to the next round of multi-annual budget negotiations but rather as an opportunity to significantly reform the budgetary decision-making processes.

Synchronised budgetary and political cycles of the EU institutions are critical for the legitimacy and accountability of the negotiation and adoption of budget agreements. The European Parliament and the Commission should not have to deliver a new MAFF in

their first days in office or towards the end of their term. This is the case at the moment and the implications are evident.

“Red lines” and pre-negotiated agreements should not be allowed to determine the outcome of future budgetary agreements. One way of achieving this could be through a complete separation of the formulation of long term strategies from the detailed haggling over specific budget posts. Even a complete decoupling of negotiations about financing from negotiations over expenditure is worth considering. This might prevent a situation where the governments have pre-determined positions and a narrow focus on *juste retour*. The national-level formulation of country positions and priorities must also be addressed in order to achieve a more satisfactory and efficient outcome, and this cannot be done on the initiative of the Commission.

Decisions concerning the EU budget have consequences not only for the detailed spending and financing of each budgetary heading, but also for the EU’s long-term political and economic strategies. They have knock-on effects for current and future social, economic and environmental policies which may not (yet?) be directly reflected in this limited budgetary framework. It is crucial that the EU has a decision-making mechanism which can produce a more rational, priority-driven budget.

So far politicians and policy-makers have signalled some willingness to discuss the big questions necessary for a fundamental budget review. But regardless of how much governments are willing to compromise on their national interest in terms of expenditure and revenue, there is no current consensus that a better decision-making mechanism is needed. Yet only with a better decision-making mechanism will the EU be able to agree future EU budgets which correspond to EU policy priorities.

MODERNISING THE EU BUDGET – STRATEGIES OF REDEPLOYMENT

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How can resources in the EU budget be rechanneled towards new priorities? And how do we move beyond the claim for ‘juste retour’ to give more weight to genuinely common European interests? These challenges demand attention in the mid-term review and the preparation of the next financial perspective.

From its early focus on coal, steel, nuclear energy, agriculture and industrial commodity tariffs, the European Communities have gradually fanned out into an ever-expanding spectrum of policy fields. Half a century after the Rome Treaty, it is no longer meaningful to define the Union merely by enumerating a number of domains where it is active. Though its involvement remains thin in many sectors, there is now at least some imprint of European cooperation, harmonisation or integration in virtually every field of national and local policy. And when it comes to rules and standards, we see a constantly growing interdependence and interaction between domestic norm-setting and the provisions and principles embodied in the 95 000 pages of EU legislation.

If the impact of the Union has thus expanded considerably in recent decades, there has been an even greater expansion of expectations and demands for further European action. One of the safest indicators that the Union is turning into a fully-fledged political system of its own is the steady extension of areas in which it is called upon to intervene. It does not take long for emerging concerns in European societies to be translated into European issues. Or, to look at the other side of the coin: there is now a new group of culprits in politics. Where people previously complained only of their local, regional and national politicians and authorities, an increasing part of the blame is now being directed towards the European level, and not only by the citizens themselves but also by the intermediate actors just mentioned.

This radical extension of the common political agenda raises several questions about the adaptability of the European Union. How responsive is it to ascending priorities? What capacity does it have to meet new challenges? The call for increased flexibility in various markets has become something of a mantra in Lisbon-related messages, but how flexible is the EU itself? If we wish to enhance the performance of the Union and improve its capability to take on board new tasks, such questions merit serious attention.

The Reform Treaty was meant to facilitate decision-making in some important areas and may well have this effect. Yet there are still a host of “veto points” in the policy-shaping process, established with the unashamed intention of protecting member states from a

variety of potential adversities. This is particularly true in the budgetary process, with its long-term version laid down in the financial perspectives. The many safeguards built into this system offer a great deal of stability and security over the medium term.

Yet the onslaught of new requests raises the problem of renewal and modernisation. The easiest way to accommodate emerging demands is always to mobilise additional funding, but if such increases are not available, there is no other way out than reviewing previous priorities. Are the needs still the same? Are they as important and urgent as they were once deemed to be? Can they be tackled with greater efficiency? Have new suppliers or methods entered the market? These are some of the questions traditionally asked in the budgetary process, with an equally traditional division of roles and arguments amongst the different partners in the ever-repeated dialogue. Students of budgeting have long distinguished between *advocates* and *guardians*, and it is not difficult to spot actors playing these two parts on the European scene.

EXPLICIT VS. IMPLICIT REDEPLOYMENT

Budgetary processes at all levels are well-known for their bias in favour of inertia, marginalism and status quo. Radical changes are infrequent. To illustrate this predicament, let us assume that there are three well-established policy programmes (A, B, and C) and three “ascending priorities” for which there is insufficient funding (D, E and F).

How can resources be transferred from the former areas to the latter? It could be argued that there are in principle two different strategies of redeployment.

The first one is simple, straightforward and explicit: a reshuffle of available means that is accepted as reasonable and legitimate. Programmes A, B and C are reduced or abolished, perhaps through a phasing-out procedure and various mechanisms of compensation. The means are then transferred to programmes D, E and F.

The second strategy is more complex, roundabout and implicit. Here, elements of the ascending priorities are introduced into the old programme structures through a process of redefinition. The established policies are reshaped, reformed, relaunched or reinvented to make space for new elements. In the Latin parts of Europe, a term sometimes employed is *refondation*.

What are the pros and cons of these two methods? From a rational point of view, it would seem preferable to call a spade a spade and avoid the slight element of make-believe that is inevitably present in the implicit strategy. But there are many reasons why the second method has become the preferred option in EU politics.

Foremost among these are the high political transaction costs and the strong vested interests involved in European policy-making. Investments in consensus are not easily discarded. It has taken decades of hard work to hammer out the common agricultural policy, and a large number of institutional and legislative barriers have been erected to protect it from various kinds of interference or disturbance. The financial frameworks are furthermore established for seven-year periods, sometimes with extended horizons for certain components. Member states as well as particular product sectors have attained considerable skill in claiming and protecting their own slices of this common pie. *Mutatis mutandis*, we find a similar situation in structural policy.

A particular advantage of implicit redeployment is the avoidance of new distributive disputes. Once the division of the pie has been established for the whole seven-year period, there is no need to bring up this sensitive matter again as soon as a new policy issue is placed on the table.

This goes some way towards explaining why the politics of cautious adaptation is much easier to adopt than the politics of brutal change. To phase out some harmful direct subsidies in the CAP, let the savings trickle into “rural development”. And to get rid of simply redistributive and largely inefficient elements in structural policy without affecting the general framework, let there be a process of ‘lisbonisation’ through which some of the available means are put to a more productive use.

The recourse to structural-policy envelopes for handling a variety of other needs is by no means a new phenomenon. This well-endowed part of the budget has often served as an umbrella for ventures in a variety of sectors which, on their own, have not received sufficient support in the budgetary process. Thus, we find probably more spending on cultural initiatives within the various structural-policy programmes than in the small budget for DG Culture.

In preparing for the mid-term review and the next financial perspectives and in modernising its agenda, the European Union can therefore achieve a lot by reinventing old policies. It already has considerable experience in this art, which might perhaps be called the politics of retrofitting. As used in engineering, retrofitting refers to the addition of new technology or features to older systems. In the EU context, it would mean a preference for implicit forms of redeployment.

But there are also limits to the potentials of this strategy. Many emerging needs cannot easily be met with novel forms of CAP or structural policy. Others would have to be seriously distorted to fit into the established structures. Some of the new concerns may also become quite costly, such as climate change, external security, internal security, and the stabilisation of neighbourhood hotspots. Investments in such fields are typical “European public goods” with relatively few benefits for specific member states.

This emerging panorama of challenges can hardly be addressed without explicit shifts in the EU's priorities. But it also requires a resolve to shift the emphasis in EU spending from nationally-targeted expenditures to genuinely common interests.

FROM 'JUSTE RETOUR' TO GENUINELY PUBLIC GOODS

Cui bono? The issue of "net balances" is the scourge of all quarrels on the finances of the European Union. Politicians, journalists and academics alike seem obsessed with the spotting of winners and losers. Whenever a policy proposal is put forward there is a flurry of efforts to calculate how money would flow out of certain countries and into others. Ministries of Finance examine with grave concern not so much their absolute net position, which is an outcome of previous negotiations, as the modifications in this balance that would come about through different new proposals. Woe to the government that would be led to condone losses to its own country! Guarding the goal cage of the national treasury seems to be the first duty of many member-state representatives in EU negotiations.

There are several problems with this attitude. One group of fallacies could be assembled under the umbrella of *quantitative nationalism*:

- First of all, the idea that any euro returning from Brussels to one's own country is a good euro.

- Second, the view that all such euros are equally good regardless of what they are spent on, what they require in policy adjustment, and where they land. Even if it costs one matching domestic euro to capture one European euro and both then are wasted on a loss-making project, the very fact of getting some money back from the EU seems to give comfort and pride. Optimists could of course claim that if decision-makers at several levels have to agree on a project, it will probably be sound. But pessimists could argue the opposite: if none of the sponsors carries the full costs, nor will they make full use of their capacity for prudence in assessing the project.

- A related third element, often disregarded, is the domestic redistributive impact of the whole operation. When more data on the disbursement of CAP payments become available shortly, we may expect some more interest in this particular aspect.

Another consequence of this way of measuring the clout and negotiating skills of the various member states is a *bias in EU spending for outlays with nationally identifiable benefits*. What follows is a neglect or downgrading of genuinely common goods which are characterised by their non-divisibility, non-excludability and non-rivalry.

At the rhetorical level, there is no lack of emphasis on such collective needs. Speeches, declarations and communications from the Commission, and Presidency conclusions

from the European Councils: all incessantly call for more action in fields where Europe as a whole would benefit from joint interventions. In the many areas of concern for the European Foreign and Security Policy there is frequently consensus on the desirability of more ambitious European initiatives. But as long as there are very limited common resources available for such ventures and the participation in various undertakings must be borne by the national treasuries, the scope for action is restricted.

Thus, policy areas where the benefits are genuinely collective suffer from persistent under-funding. Traditionally, the demand for such investments has not been influential enough to overcome the natural budgetary resistance unless supplier interests have also been mobilised, and one or a few member states have taken the lead in pushing for action. But judging both from our own recent experience and from that of other evolving political systems, it seems more than probable that these kinds of common goods will rise on the Union's political agenda.

CONCLUSION

In the early era of the European Union, the principal task was to get things started and secure a necessary minimum of political support for the new institutions and procedures. The lessons learnt during this period will be useful in the future as well, and the need for innovations is certainly not exhausted. But in addition, we will have to master the art of reforming the Union by scrapping inefficient policies and programmes in spite of the vocal resistance of well-entrenched national, institutional and organisational interests.

This makes it imperative to focus not only on policy initiation and implementation, but also on methods of policy adaptation and termination. Another challenge is building alliances for genuinely common European initiatives, for which national "net flows" cannot be calculated because the gains are evenly spread across all member countries.

REFORMS OF THE EU BUDGET – TOWARDS A MORE OR LESS VIGOROUS PROCESS OF EUROPEAN INTEGRATION?

Jarosław Pietras, EU budget Project Leader, DemosEuropa

The Treaty of Lisbon is expected to bring more dynamism to the European Union project. However, the question remains as to what extent the same can be said about the development of other instruments of EU integration, including the common budget. The readiness to finance the EU and its policies is always the simplest measure of how realistic the political intentions of the EU member states are. Obviously, the achievement of the EU objectives, both when it comes to the functioning of the economy (single market) or in the political dimension (CFSP, neighbourhood policy, etc.) can involve national – rather than common – budget or non-financial instruments. Nevertheless, the potential of European integration, the effectiveness of the EU's policies, and progress in meeting of European aims all depend to a large extent on the ability to mobilize joint resources.

The EU budget at present amounts to less than 1% of the annual GNI of all the member states. In the past it has increased with the growing number of member states, the deepening of European integration and the increase in the scope of EU policies. In nominal terms, the value of the EU budget has slightly more than doubled over the last 25 years but in relative terms growth was stopped in the mid-1990s when the budget amounted to about 1.18% of the GNI of all member states. The highest volume of the budget was recorded in the year the Treaty of Maastricht entered into force – that is in 1993, before the enlargement to the EFTA countries. After 1993, although growing nominally, the size of the EU budget has decreased in relative terms. In spite of new grand projects such as the introduction of the euro as the common currency, the adoption of the Lisbon Strategy or enlargement to countries of Central and Eastern Europe, the European Union has not increased the share of joint expenditures either in total GNI, or in accumulated public expenses.

The discussion about the budget is not entirely an argument about money. Negotiation of the budget is not a zero-sum game, although the process of agreeing the financial perspective and the statements made by politicians could suggest that if someone gains then others must have lost out. Therefore the EU budget is often analysed in the framework of game theory and treated like a “dividing up the cake” problem. Presenting the EU budget exclusively in the context of its volume, the scale of contributions compared to the EU funds spent on the territory of the respective member state, or even the size of the EU funds designated for the respective sections or programmes, resembles the analysis of the tip of an iceberg – i.e. analysis which looks only at the EU-level part of all necessary financing of EU objectives.

Reaching the objectives of European integration does not take place exclusively via EU budget spending. The costs which result from jointly agreed objectives are incurred to a large extent by the consumers, entrepreneurs and national taxpayers. Expenditures aimed at meeting EU objectives which are made by the member states exceed by several times the available EU funds. National budgets of the member states are tens times more than the EU budget. The distribution of the costs of implementing EU policies is not equivalent to the division of contributions to the EU budget. Therefore modifications of the budget and EU policies are always difficult, because their role in advancing European integration must be reconciled with the impact of an uneven distribution of the benefits and costs of EU policies between member states.

LINKAGES BETWEEN THE EU BUDGET AND NATIONAL PUBLIC MONEY

The EU budget cannot be analysed separately from the public finances of the member states. That linkage is not only a direct one, for example when the budgets of the member states finance or co-finance Union tasks, but also indirect – as when the regulations of the European law require higher financing, or when the EU laws ban spending in some areas where it can have an adverse effect on the functioning of the single market. Financing expenditures across the entire EU from the EU budget may be more effective than dispersing this spending. The common agricultural policy (CAP) is a characteristic example. Although it takes up a substantial share of the EU budget – its size and content is frequently criticised – EU regulations limit the freedom of member states to spend additional funds in this policy area. This makes the CAP qualitatively different from areas where the EU formulates important objectives but leaves their financing to individual member states.

The European Union brings tangible advantages to all the member states. These are benefits which outweigh several times their contributions to the EU budget. Nevertheless, the political process and the process of decision-making encourage the reduction of contributions to the EU as a result of constantly comparing income to spending in the EU budget. It follows from this that the traditional (proper) own resources play a diminishing role compared to the contributions from the national budgets of the member states. When planning their budgetary spending, member states envisage the cost of participating in the EU process as one of the components of the budget. That item shows up in the national budget as a contribution to the EU and normally reaches about 2-2.5 percent of the overall public expenditure (in some member states rising as far as 10 percent). Given the national fiscal constraints and EU's discipline resulting from the Growth and Stability Pact, member states do not treat contributions to the EU budget as potentially enhancing the effectiveness of their public finances (i.e., savings) due to the European added value, but rather as spending whose reduction improves the national budgetary situation. It is no surprise therefore that when preparing the budget each member state attempts to reduce this item of national expenditure. This increases the

intergovernmental disputes over the scale of contributions to the EU budget and of EU funds transferred to a given member state.

Economic advantages of EU membership are disconnected from the contributions to the common budget. They concern not only member states but also regions, sectors of the economy and social groups. Generally, benefits from European integration do not register immediately and directly in the public finances of the member states. On the other hand, the costs of financing the European Union are directly shown as an explicit and normally significant expense of the national budgets of the member states.

The situation is made more complicated by the gradual extension of the qualified majority voting (the Treaty of Lisbon not only slightly enlarges the scope of QMV, it provides a voting method which facilitates the achievement of the required majority). This multiplies the situations in which member states can be outvoted when adopting new EU instruments. In such situations, these member states are in any case obliged to apply or implement the provisions where their national preferences had been different; at the same time they must come up with national public funds to bring about objectives which were not necessarily their first priority.

WHICH WAY FORWARD?

The EU budget should be coherent with the aims of the European Union, policies that were commonly agreed and instruments that were chosen to ensure the fulfilment of EU aims and the implementation of its policies. Coherence is an important feature of the ensemble of the European integration process. Most often, however coherence is understood as relationship between the scope of the policies and the governance process that implements policy instruments. In a report prepared by the group of experts chaired by Andre Sapir, coherence is analysed on three levels: coherence at the level of instruments and objectives; coherence at the level of decision-makers and jurisdictions; and coherence over time for a given decision-maker and jurisdiction.¹ In addition to this horizontal approach one should add the vertical relationships of instruments used and objectives that are achieved at different levels of the EU.

The EU budget is an important element of cohesion in the European Union, indispensable for putting into practice its policies and making operational the instruments necessary for jointly agreed objectives. In general, there is no possibility of effective and coherent implementation of EU policy without cohesion in its economic dimension. Spending on cohesion policy is not exclusively an expression of European solidarity but also a mechanism which favours the achievement of coherence at the level of EU

1. *An Agenda for a Growing Europe. Making the EU Economic System to Deliver*, Report of an Independent High-Level Study Group established on the initiative of the President of the European Commission. Chaired by André Sapir, Brussels July 2003, p.8.

objectives, policies and their implementation. To a large extent, cohesion funds serve the purpose of enhancing the capacity of less prosperous EU member states to implement the *acquis communautaire*. There is also an important efficiency aspect of the coherence between policies and instruments used to achieve the aims of the EU. This suggests that the concept of European added value and the provision of EU-wide public goods should be included in any consideration of how and by whom the EU and its aims and activities are being financed.

It is missing from public debate that the EU budget not only finances the Brussels bureaucracy but above all contributes to the supply of public goods in Europe, bringing about the European added value in relation to the dispersed financing by member states. The EU budget is often treated as a vehicle of redistribution between the more and less affluent member states. Even given the small size of the EU budget (1 percent of GNI), a majority of the poorer member states already contribute larger chunks of their national income than the richer states. While elements of redistribution may be recognized in the expenditures of the EU budget, contributions to the budget are degressive. Irrespective of the component of solidarity the EU budget should be a mechanism which makes it easier for the European Union to adopt ambitious objectives and for member states to bring them about. Aims of EU policies frequently extend beyond the capacity of particular member states. States' weaknesses could lead to uneven implementation of the commonly established objectives, thereby undermining coherence of the Union. In order to fulfill this function, the EU budget should be treated as a tool for enhancing efforts undertaken at all levels of the implementation of European policies – local, regional, national and the Union level.

There is an obvious contradiction between increasing the simplicity of the direct national contribution to the EU budget (defined for example as a fraction of their respective GNI) and the increased complexity potentially brought by an enhanced new own-resources system. Applying the first approach mentioned above, the system would become simple and easy to manage, would not require an engagement of substantial human resources in the European Commission, and would not provoke disagreements such as the current ones about various overdue amounts – disputes which take years to settle in the Court of Auditors or the European Court of Justice. The system could also become transparent, after the removal of rebates, exceptions, etc., at least on the contribution side. A system of this kind would limit the autonomy of the EU institutions in the budgetary area, but enhance the process of intergovernmental bargaining and encourage the direct comparison of amounts contributed with those received by every member state. It would stoke the debate in national parliaments over contributions to the EU budget, while the European Parliament would only be able to retain influence over the expenditure side.

A second approach could increase the share of revenues of the EU budget that are based on a widely applied, universal European own resource. This would eliminate the problem of political bargaining around the contributions; it would make it difficult to

calculate the net positions and it would be conducive to enhancing the legitimacy of EU finances. It could be based to a larger extent on decisions of the European Parliament, which might acquire the right to decide about the income of the EU budget. It would help to defuse disagreements inside member states concerning national budgets and contributions to the EU budget. However, the lack of clarity in the division of the fiscal burden, and the differences between the situations in the different states, would intensify disputes and the pressure to make concessions or to introduce correction mechanisms. The creation of a system in which the EU budget would be based primarily on real own resources could substantially change the perception of European integration. If the EU budget was financed fundamentally – rather than modestly – from own resources, the problem of the “juste retour” would disappear naturally, as would the need for wide spread “corrections”. It should be taken into account, however, that the EU does not have and probably should not have parallel tax authorities to those of member states. In such a situation member states would be able to assess the scale of their transfers to and from the EU. In order to avoid this, at least some of the own resources would need to be paid directly to the EU budget without intermediation of Ministers of Finance – therefore not being attributed to any given country. Achieving the 50/50 proportion between own resources of the EU budget, which are not easily attributed to the member states and which are therefore not present in national budgets, and resources paid in by the member states seems to be a possible compromise.

A closer link ought to be sought between the effects of integration and the costs of achieving them. Contributions to the EU budget should be made not only by the member states but also by those who gain the most from EU cooperation. It should be based on the principle that states or economic operators who benefit from an EU instrument are expected to share these benefits with the common budget. In addition, those making the functioning of the single market more difficult (therefore depriving others from potential benefits) should be required to contribute to the EU budget. There is also a legitimacy aspect of this principle. Currently every tax-payer contributes indirectly to the EU budget without any relationship to the benefits accrued from European integration. Making a link between contributions to the EU budget and benefits would help to address this issue.

THE EUROPEAN BUDGET – THE RIGHT MEANS TO SUPPORT A PROJECT FOR EUROPE?

Eulalia Rubio, Researcher, Notre Europe

The European Commission is currently undertaking a comprehensive revision of the EU budget, following the conclusions of the European Council of December 2005. The review will be an important issue on the agenda of the next three EU Council Presidencies. As is well known, this budgetary revision is exceptional: never before has the Commission received such a wide-ranging mandate to revise the European budget, and to do it so early relative to upcoming multi-annual financial negotiations. This has led many analysts to wonder about the final outcome of this revision exercise: will the revision serve as catalyst for a profound reform of the EU budgetary system that will provide the means to support an ambitious project for Europe or will it simply lead to cosmetic changes?

As a launching point for discussion, this note takes the Commission's communication "Reforming the Budget, Changing Europe", which frames the issues at stake during the public consultation preceding the budgetary review. Section 2 discusses considerations relevant to the document in general (or more precisely, to the Commission's approach in preparing the budget review exercise), while sections 3 to 5 put forward *Notre Europe's* recommendations on the reform of the EU budget (distinguishing expenditures, revenues and procedure).

THE BUDGETARY REVIEW EXERCISE

Notre Europe welcomes the Commission's decision to set ambitious goals for the budgetary review – that is, to use the 2008/2009 review as an opportunity to promote a far-reaching reform of EU finances. However, we believe that some points should be kept in mind to ensure the success of the exercise.

First of all, the budgetary review should be 'comprehensive' in form and practice. Despite the fact that the Council mandate describes the review as a comprehensive assessment of both expenditures and revenues, there are hints that the Commission will concentrate on the first. *Notre Europe* considers that this would not be the most appropriate strategy to trigger a major reform of the EU budget system. If the goal is to ensure a well-functioning EU budget for the coming decades, we need seriously to address the problems of the revenue side and the structure and functioning of the EU budgetary system.

Secondly, discussions on the spending side should be clearly focused on the medium term, that is, the next financial perspective (2013-2020). The Commission has been rather

ambiguous with respect to the timeframe of the review exercise. The Commission's communication says that the review will serve as a thinking exercise on the budget "for the next decades and ahead". But it is unclear whether this means thinking on the budget for the next financial perspective period (2013-2020), on the period post-2020, or on both. We believe that debates on EU spending should be clearly focused on the near future, otherwise we risk finishing with vague recommendations on the future direction of EU spending. In particular, the budgetary review should serve to build a compromise on the "political vision" that should guide EU spending for the coming FP.

Discussions on the revenue side should be on the contrary clearly focused on the long term (after 2020). We believe that the EU financing system, as it stands today (with member states' contributions being the main source of revenue), is highly dysfunctional. Even if we are aware of the difficulties that imply a move towards an EU own-resources based system and the current lack of political will to move in this direction, we believe that the question is too important to be excluded from the agenda. The review should seriously discuss the pros and cons of alternative EU own-resources based systems and the way to move in this direction (that is, discussing ways to make the shift politically acceptable and a feasible calendar to implement it).

Finally, past financial perspective negotiations provided ample evidence of the shortcomings of a system in which major spending decisions are taken through intergovernmental process and subjected to unanimity vote. This system is not only unsuitable for a Europe of 27 member states; it transforms EU budgetary negotiation into a purely political bargaining game between nationally-focused member states. If the aim is to come up with an EU budget not only for the immediate future, but for the decades ahead, it is imperative to think about reforms of the decision-making procedure (even if the latter requires treaty amendments).

EXPENDITURES

In the first place, European Heads of State or Government need to find a compelling long-term political objective guiding the forthcoming financial perspectives. The most successful multi-annual financial agreements were legitimised by the existence of a unifying political project (the internal market in 1988/1992, Economic and Monetary Union in 1993/1999 and enlargement in 2000/2006). In the last financial negotiations, the Commission's proposed goal (the Lisbon Strategy) was much less appealing; this might have been one of the reasons explaining the dominance of short-term national interests in the budgetary negotiations. And the same might happen in the coming negotiations, if we do not start immediately to look for a common vision for Europe. This effort is more important than ever, in a Europe of 27 which is highly heterogeneous in both socio-economic conditions and political preferences.

Secondly, the Commission's communication implicitly draws a dichotomy between a budget that delivers present policies and a budget that prepares Europe for tomorrow's challenges. We believe that this way of framing discussions on EU spending is fundamentally flawed. We do not need a "budget for the future" (Commission dixit) which is implicitly opposed to the "budget for the present", but rather a "budget for the present oriented towards the future". In other terms, EU spending discussions should not be framed in terms of how to distribute money between the so-called "old" and "new" spending categories, but on how to re-think the rationale of all EU spending in the light of new challenges (environment, migration, demography, global economic order, transformation to a knowledge and service economy, new global security, etc.) and with a view of realising a long-term EU political project.

Currently, EU budgetary negotiations proceed by first fixing an expenditure ceiling – currently at 1.24% GNI – and then deciding on the allocation of funding per policy area. This top-down logic should be abandoned in favour of a "bottom up" or "policies-first logic" (negotiations starting by first identifying policy priorities and then allocating resources accordingly). As a corollary, the current expenditure ceiling of 1.24% of EU GNI should be removed.

Moreover, a good antidote to EU spending decisions driven by national interests is to force actors to justify all EU spending claims on rational and objective bases. In this respect, we welcome the Commission's call to submit all EU spending to the "added value" test. However, we consider that added value assessments:

- Should not be used to evaluate and rank EU goals but to assess the best means of using EU spending to attain these goals.
- Require careful empirical analysis, and therefore are only meaningful if carried out at the sectoral level and by sectoral experts.
- Should serve to assess the economic and non-economic gains from action at the EU level, in particular the benefits for cohesion and solidarity in the EU.
- Should take into account the benefits of EU action in terms of outputs (policy results) *and* inputs (improving systems of governance, ensuring that EU decisions are perceived as democratic and politically accountable). For this reason EU spending on "citizenship" issues such as education, culture or support to civil society should not be overlooked with a simplistic approach to subsidiarity. Although these areas remain primarily in the sphere of member states' competencies, there is a specific and necessary complementary action of the EU that needs to be preserved and extended.

Re-thinking EU spending however implies more than re-thinking the levels at which actions should be carried out. It also requires thinking on how best to coordinate the

overlapping involvement of different governmental actors (and thus different public budgets) in the attainment of common objectives. While this works as a general rule, it is particularly applicable to the EU spending directly concerned with the achievement of the Lisbon goals (EU spending on research and development, transport networks, education). EU spending on these areas should serve not only to finance particular programs showing strong economies of scale or transnational externalities, but also as a leverage instrument to catalyse and/or re-orient national and sub-national spending in these areas.

As far as current CAP spending is concerned, it is subject to much criticism and needs to be revised. However, we believe that the revision should not be solely guided by the need to 'liberalise' resources for other EU policy priorities. They should come after a thorough debate on the objectives guiding EU action on agriculture and rural development in the coming decades and the best way to achieve them. In the context of this debate, *Notre Europe* will:

- Stress the importance of preserving the European model of agriculture, which combines the search for economic performance and competitiveness with the preservation of a socially sustainable and environmentally respectful model of production.

- Highlight the need to maintain and improve EU action on rural development aimed at securing viable communities in rural areas, as part of the measures to give practical effect to the new Lisbon Treaty's goal of promoting territorial cohesion.

- Recognise the limits of common action on agriculture and rural development, given the differences in farming and rural conditions across Europe as well as the heterogeneity in national policy preferences in this area; and therefore accept the possibility of introducing some degree of co-responsibility with national and sub-national governments in the financing and design of EU policies.

Finally, cohesion spending has to be more than a vehicle to achieve Lisbon goals. *Notre Europe* notices with some concern the recent tendency to justify EU cohesion spending on the basis of its contribution to the attainment of the Lisbon goals. We believe that cohesion spending should not be evaluated on its capacity to increase the aggregate level of EU economic growth and employment (Lisbon goals). Even if the spending has a positive impact on EU-wide economic growth and employment, its main objective is to promote social and economic convergence across regions in Europe, and it is in the light of this objective that the 'added value' of cohesion spending should be assessed. Other than that, cohesion spending serves two other objectives that, by their very nature, cannot be addressed through national action:

- Territorial co-operation (promoting cooperation among territories forming part of different nation states).

- Territorial cohesion (ensuring that all citizens in Europe, regardless of their location, have equal access to life opportunities and basic services).

REVENUES

As said before, the current EU financing system (characterised by the dominance of national GNI-based contributions) creates a number of problems. It is not only in contradiction with Art 269 TEC (retained in the Treaty of Lisbon), which prescribes that “without prejudice of other revenue, the budget shall be financed wholly from own resources”, but it feeds the tendency of member states to calculate their net budgetary return, and hence to focus in EU budgetary negotiations on maximising this return. In addition to that, we believe that a budget financed by national contributions does not reflect the status of the European Union (defined in the treaties as a community of both member states and citizens) and it is at odds with current EU efforts to make the EU more democratic and closer to citizens. For all these reasons, *Notre Europe* considers that it is time to have an in-depth, realistic and constructive discussion on how to move towards an EU own-resource based financing system. *Notre Europe* has made a contribution in this area (see Jacques Le Cacheux, *Funding the EU Budget with a Genuine Own Resource: The Case for a European Tax*) and welcomes other contributions in this direction, such as the one recently made by the European Parliament (the Lamassoure Report¹).

In the short/medium term, it is also imperative to put an end to the logic of abating national GNI-based contributions on the basis of arguments about excessive “net national returns”. More generally speaking, we believe that EU decisions on spending and revenues should be taken separately and on the basis of different principles and logics.

THE DECISION-MAKING PROCEDURE

As said in section one, we deplore that the Commission has not included the question of procedure in the agenda for the 2008/2009 review. *Notre Europe* believes that a reform in the decision-making procedure is a pre-condition for an EU budget that continuously adapts to the changing needs and demands of the Europe. In particular, we consider that in the coming decades it will be essential to introduce certain modifications in the decision-making mechanism.

Even if there are formally two EU budgetary authorities (the Council and European Parliament), in practice the multi-annual budget (the financial perspectives) is adopted by the Council through unanimity vote. The only effective means by which the Parliament can influence the final outcome is by rejecting the decision adopted by the Council (something which creates problems of delay and therefore works as a sort of “last resort” option). If we want to ensure that the EU budget is continuously responsive to the changing needs and demands of Europe, we need to give more say to the only institution representing the

1. European Parliament, Committee on Budgets, “Report on the future of the European Union’s own resources” (“Lamassoure Report”), final A6-0066/2007, 13 March 2007.

interests of EU citizens – that is, to the European Parliament. There are currently some proposals on the table that point in this direction, such as Gros and Micossi (2005)² proposal to give the Council the task of deciding the total amount of spending and the Parliament the task of setting the expenditure priorities; or more recent Nuñez Ferrer's (2007)³ suggestion of requiring the Parliament to endorse the Commission's financial proposal before the Council discusses it. We consider that these proposals merit serious analysis and discussion.

There is finally a need to synchronise the reference period for the financial perspective with the Parliament legislative period, so as to ensure that budgetary decisions are taken in accordance with the results of the European elections. That said, we consider that the benefits of a 7-year multi-annual framework should not be ignored. In particular, a long programming period is essential for certain type of investments, such as those related to structural funding that take a long time to be programmed and implemented. In this respect, *Notre Europe* calls for a reform of the programming period able to satisfy these two objectives, synchronisation and stability in investments. An interesting proposal is the one put forward by the Committee of the Regions in its forthcoming report on the reform of the EU budget: to extend the programming period to 10 years but to divide it into two periods of 5 years, with a mid-term review to reassign part of the funding for the second period.

2. Gros, Daniel and Micossi, Stefano (2005) *A Better Budget for the European Union: More Value for Money, More Money for Value*, CEPS policy brief, n 66/February 2005.

3. Nuñez Ferrer (2007) *The EU Budget: The UK Rebate and the CAP: Phasing them both out?* CEPS Task Force Report, November 2008.

A BUDGET FOR THE FUTURE OF THE EU

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The European Union is facing an important turning point in its history. For the past 50 years it has primarily concentrated on the post war reconstruction and the creation of an integrated and solid single European market. During the last two decades it has also had to adapt to a new European reality, by integrating the ex-communist countries in Central and Eastern Europe. These 50 years were complex years of internal policy adaptation to the new internal challenges of Europe.

While the single market is not perfect, and the enlargement process is not fully completed, the EU has managed to consolidate its position and to ensure the all but irreversible economic integration of its member states. In the meantime, however, the global arena has changed: world trade competition has increased, new global economic and military powers have emerged, migration and security issues have become more acute, climate change presents itself as a formidable new challenge and threats to the developing world (for instance, shortages of drinking water and growing food insecurity) have increased.

The EU institutions and member states are aware that the biggest challenges for the EU are now external. In the coming decades the EU's challenge is to develop a capacity to engage with the issues mentioned as an international political power; to improve its position as a large competitive economic player; and to retain its position as a centre of innovation. The world is also becoming increasingly multi-polar with new economic and political giants.

These conditions will require the EU to shift its focus away from internal policy making and policy structures. With regard to institutional changes, national leaders have already agreed on the Lisbon Treaty which is in the process of ratification by the member states. This Treaty does not solve all the institutional problems of the EU, but it will help the Union to work better. It will also give the EU a framework that will allow its institutions to develop into more democratically representative structures – opening the perspective of a real political space for the EU.

The European Union needs to adapt and to ensure that all its resources are efficiently used to address the challenges ahead. This will entail a large process of fine tuning, aiming to achieve *policy coherence* at all government levels. One of the tools that are currently under review is the EU's budget, which is widely considered to be much out of tune with the needs of the Union.

Given the limited financial resources of the budget, it is of paramount importance to avoid any waste of resources if the EU intends to make any substantial difference through its expenditures. It should target those areas where its budgetary means can add most value to achieve the Union's objectives.

WHAT ARE THE CHALLENGES AHEAD THAT INVOLVE THE BUDGET?

Concerning the areas, there is already a clear picture where the EU budget can play a role. The global challenges which the EU needs to address are:

- Competitiveness of the Union.
- Climate change and environmental sustainability.
- Security and home affairs.
- External action.

Apart from these global challenges, it is possible to support certain EU-wide internal objectives with the budget – for example:

- Assisting the development of poorer member states and regions.
- Protecting certain defined European common goods.

HOW TO APPROACH THE BUDGET REVIEW?

To address the challenges of the future, the EU budget must be reformed radically to ensure a much more efficient focus on the goals it needs to achieve. Budgetary principles must be applied more stringently, and in particular proportionality – i.e., *the EU may only act to exactly the extent that is needed to achieve its objectives, and no further*. Consequently it is necessary to:

- Review the role of policies *and their measures*. Are they targeting European public goods, and are they creating added value which could not have been achieved without EU intervention?
- Radically review the share of the agricultural policy in the budget, with reconsideration of the national financial responsibilities. Even if some aspects remain financed by the EU budget, there is a need to reduce substantially the inefficiencies of the instruments and related financial waste.

■ EU funds for cohesion should concentrate on the poorest regions of the EU, which lack the basic infrastructure to allow endogenous development to occur. Eligibility criteria should be based on more parameters than GDP per capita at purchasing power parity, as the current situation allows regions with very different living standards and resources to be supported similarly. Eligibility should also be conditional on performance, and the level of support should be reviewed regularly.

■ Action on climate change must be funded more substantially; funds must be earmarked for EU objectives – for example, investments to tackle the problem.

■ EU funds for research and development should be allocated based on excellence and not pre-allocated by country.

■ Funds for Justice and Home Affairs and external action need to increase considerably.

The main challenge ahead for EU member states is to show political courage and leadership. It is now time to understand that the EU's level of prosperity is not guaranteed to last, but that the Union does have the potential to influence negative global trends in a positive way through coordinated action.

Policy coherence between EU and national actions internally and externally will be of paramount importance. Policy quality, nationally and at EU level will be the key for kick-starting Europe economically while simultaneously addressing such threats as climate change. Reforming the EU budget, so as to ensure that it reflects the real challenges ahead, is one key step in the right direction. More than any other EU structure, the budget indicates the level of member states' commitment and willingness to cooperate in order to address common challenges in an efficient way.

PART II

GROWTH



PART II – GROWTH

THE LISBON STRATEGY, THE INTERNAL MARKET AND ECONOMIC AND MONETARY UNION

As the Lisbon Strategy approaches its principal deadline in 2010, the European Council meeting of March 2008 invited the Commission, the Council and the national co-ordinators at Lisbon to start thinking about the future of the strategy after that date. In a globalised economy marked by the emergence of China and India, Europe's ambitions can no longer be limited to closing the growth gap between Europe and its trading partners. Europe needs to use globalisation as a vector for the promotion of its interests, its values and its principles.

How can the Lisbon Strategy be modified so that, post-2010, it overcomes the blocks it has encountered since 2000? Already in 2005, the poor economic, social and environmental progress led the Heads of State and Government to revise the Strategy. The continued wealth gap between Member States, despite EMU, tends to justify the implementation of economic policies with strictly national focuses to the detriment of more European initiatives, and the various coordination mechanisms of the Lisbon Strategy do not seem to have attenuated this trend. Criticised, Europe's shortcomings in terms of economic governance have not been rectified by the Treaty of Lisbon.

However, opportunities for improvement do exist. The adoption of numerous economic, social and environmental targets by the new Lisbon Strategy must go hand in hand with a definition of clear action priorities (*SWP*). This political exercise implies prior agreement within the Trio Presidency (*Europeum*). Efforts should notably be focused on the internal market because of the positive effects that reforms in this area have on other domains (*Eliamep*, *SWP*) and the strong influence that the European Commission has in this area (*Eliamep*, *Europeum*). More specifically, the Lisbon Strategy's focus on innovation and competitiveness implies taking internal measures aimed at the recognition and establishment of a 5th fundamental European freedom: freedom of knowledge (*EPC*). A differentiation of the objectives may be considered for different countries in order to take into account the persistent heterogeneity of Member States' economic situations (*SWP*).

Above all, the Trio Presidency should work towards making the various different economic, social and environmental initiatives as coherent as possible and should also ensure that the EU's internal initiatives are coherent with its external policies (*Europeum*, *Fondation pour l'innovation politique*, *EPC*, *SWP*). One priority should be the definition of practical way to allow Europe's Economic and Monetary Union to be represented in international

forums, in the IMF, G7/G8 and the Worldbank and vis-à-vis important international partners such as the US or China (*SWP, Fondation pour l'innovation politique*).

Regarding the resistance encountered in the implementation of the Lisbon Strategy over the 2000-2010 period, financial and political incentives should be introduced to supplement the existing strictly institutional incentives (*Fondation pour l'innovation politique*). Thus Member States should be rewarded for the real political efforts they commit to (*Eliamep, Fondation pour l'innovation politique*). The EU budget could be solicited to stimulate the economy in times of recession (*Fondation pour l'innovation politique*) or for development programs in the innovation and knowledge sectors of the economy (*EPC*).

At the institutional level, the failure of the last four inter-governmental conferences to substantially improve economic governance suggests that pragmatic solutions should be considered outside the existing institutional framework, more focused on political rather than the legal aspects. The politicisation of the Lisbon Strategy would therefore require the organisation of a summit for Heads of Euro-zone States in addition to the European Council (*SWP*) or "Eurogroup +" (*Fondation pour l'innovation politique*). Civil society should also be more closely associated with the elaboration and monitoring of the Lisbon Strategy (*Eliamep, Fondation pour l'innovation politique*). Each EU Presidency should be an occasion for a major debate to identify which Lisbon Strategy initiatives should be focused on (*Europeum*).

EUROPE'S SOCIAL VISION

Whether or not actively encouraged by each Member State, the social dimension of European construction is nevertheless a reality that should prompt the Trio Presidency to intervene over the coming months.

In fact, while the promulgation of a single European social model is not the objective, the negative consequences of other sector policies, the constraints related to globalisation, the demographic trends and the societal transformations all create new demands on the European Union.

Each Presidency will naturally have a different vision of the responses that such pressures elicit; however, they should all bear in mind the following facts:

- The *acquis communautaire* is a living thing and it's necessary to remove hurdles to essential reforms (*DemosEuropa, Notre Europe*).
- Faced with the new economic, social and environmental challenges, regions, sectors and individuals are not all on an equal footing and the EU should find ways to offset or anticipate such inequalities (*DemosEuropa*).

■ Despite their diversity, the national systems share common foundations and principles (*DemosEuropa*) which shape a shared understanding of social progress (*Notre Europe*) and within this shared notion of social progress, the local communities, groups, authorities and civil organisations play an increasingly important role (*Notre Europe*).

The renewed Social Agenda (*Notre Europe*), the post-2010 Lisbon Strategy, the revision of the EU budget and of its immigration policy (*DemosEuropa*) all constitute real challenges for the upcoming Trio Presidency.

THE TRIO PRESIDENCY AND THE LISBON STRATEGY – NOTHING TO DO UNDER EUROPEAN SKIES?

Peter Becker, Senior Associate, SWP

After the re-launch of the Lisbon Strategy in 2005, the process has made some progress. As the Commission argued in December 2007, the Lisbon Strategy for Growth and Jobs is now working, but the EU must reform further to succeed in a globalised age. Most economic indicators are encouraging, although the Commission admits that the current upturn is mainly cyclical. The growth rates for the coming years are forecast above 2% on average, the number of jobs in the EU is steadily growing and budget consolidation is successfully occurring in most member states. Under the Slovenian Presidency, the EU will launch in March 2008 the second three-year-cycle of the renewed Lisbon Strategy, for the years 2008-2010. In line with the European Commission's assessment, the Heads of State and Government will likely agree that the Strategy does not need radical changes and should remain broadly unchanged.

The French-Czech-Swedish trio Presidency will not therefore face pressing questions to tackle or fundamental decisions to make. The most important task for these presidencies will be the implementation of the integrated guidelines renewed in March 2008. However, the Swedish Presidency in the second semester of 2009 might have to launch a debate on the promises, shortcomings and achievements of ten years of the Lisbon Strategy. This broad, open and public discussion should lead to the formulation of new and adapted guidelines steering the next cycle, 2010-2013. The European Commission should deliver a comprehensive balance sheet comparing Lisbon targets with their realization; the European Parliament and the national parliaments will then need to organise public debates (and the European Economic and Social Committee, the Committee of Regions as well as NGOs will have to submit their reports).

CHARACTERISTICS

In Lisbon in March 2000, the EU's Heads of State and Government subscribed to the strategic goal of making the Union the most competitive and dynamic knowledge-based economy in the world by 2010. The European Council's idea was to embark on a broad programme to stimulate a process of mutually strengthening reforms in the EU's labour, financial, product-related and service-related markets. In essence, European leaders agreed on a strategy to modernize Europe and to catch up economically with the USA and Japan. The Strategy is thus about transforming the advanced industrialised countries in Europe into modern, knowledge-based economies and making them fit for the

extraordinary competition associated with economic globalisation. This effort to make them fit has meant first and foremost helping enterprises and individuals to compete in a more competitive global environment.

To achieve these objectives, the Lisbon Strategy concentrated on four fields: economic dynamism and growth, more and better jobs, social cohesion and a sustainable environment. The Strategy covered a wide and sometimes even indefinite agenda starting with structural macroeconomic adjustments, including sound and sustainable budgetary politics and the overhaul of state finances. Also present were measures to provide for stronger economic growth; improve the business environment; especially for small and medium-sized enterprises; create more and better jobs; enhance social cohesion and sustainability; increase the compatibility of family and work; fight social exclusion; promote innovation, research and technology, etc. Today new topics have emerged, such as the definition of a European energy and climate policy and the better-regulation approach.

Conceiving of globalization as a chance for change had been the fundamental political idea behind the Lisbon Strategy. Creating a new role for government had been the guiding principle for the new modes of governance and the open method of coordination, the leading instruments of the Strategy. The Lisbon Strategy is a policy tool that – by emphasising fiscal stability, ensuring open and competitive markets and a more attractive business environment, creating more and better jobs and increasing measures in innovation and R&D – focuses on supply-side policies instead of the classic Keynesian demand-side policies. The political idea behind the Lisbon Strategy is also associated with the term “Blairism”, i.e. the belief in a third way between neoliberalism on the one hand and redistribution and regulation policy on the other.

One striking characteristic of the Lisbon strategy – before and after its re-launch in 2005 – has been its lack of substantive focus. The overall objectives of improving competitiveness and of increasing employment rates and economic growth need focus. The task of giving them focus is, however, complicated by the fact that some policy areas fall outside the EU’s remit and betray a long history of political conflicts and struggles over competencies between member states and the European Union. Moreover, by aiming to achieve four targets at the same time – competitiveness; economic growth; employment and social security; sustainability – the Lisbon Strategy intrinsically comprises various conflicts over targets. Its catch-all approach automatically leads to compromises.

A second characteristic is the particular nature of the process and the complexity of the procedure related to it. The three-year circle provides mid-term guidance to national and European implementation programmes; the annual implementation reports – both from the member states and the Commission – are monitored and follow on the heels of equivalent reports from previous years. This automatically leads to a high degree of continuity in terms of substance and structures.

The Lisbon strategy is not only about content and objectives but also about process. The special process of steering the Strategy includes at least three basic elements:

- The European Council's spring Summit. Every year since their initial meeting in Lisbon, the Heads of State and Government have used their March summit to focus on the economic and social issues associated with the Lisbon Strategy. The European Council performs the lead and coordinating role at the centre of the Strategy and sets the priorities for further measures to achieve the Strategy's objectives.

- The agreement of benchmarks, structural indicators and additional technical improvements. To measure the progress made and provide a basis for comparing respective national reports, the member states and the Commission agree on indicators for core areas identified in Lisbon (economic reform, employment, innovation and research, social cohesion, sustainability and the environment). The re-launched Lisbon Strategy has undergone some beneficial changes as regards the steering of the process, including the introduction of Integrated Guidelines and detailed National Reform Programmes (NRPs), as well as an enhanced and clarified role for the European Commission to monitor the national processes and give country specific recommendations. To improve the focus of the national reform measures, the EU agrees on the Lisbon programme as a frame for, and as a complement to national implementation programmes. In addition, coordination of various policy processes is today more interconnected – see for example the Cardiff process, the Cologne process or the Luxembourg process.

- The open method of coordination. At the heart of the Lisbon process sits the open method of coordination. First developed for European employment policy, it today applies to a wide range of policies. This method of coordination includes new modes of governance and provides a framework of political coordination without legal constraints. As a method to coordinate and to steer the process the open method of coordination uses new management instruments, for example annual reporting (strategic and implementation reports), peer review-processes, the elaboration of best practice and a set of common indicators to measure the progress, etc. Instead of adopting common European legislation or harmonizing national legislation, the method concentrates on new forms of cooperation; common objectives come before binding legislation.

ACHIEVEMENTS

In agreeing on the Lisbon Strategy, a coordination process has been started in which the governments of the EU-27 strive to forge a common approach in the areas of economic, employment and social policy. These have previously been dominated by national legislation. Two of the most important achievements of the Lisbon Strategy are without doubt a) the strong and jointly agreed incentives for structural reform in all member states, and b) the transparency brought to various policies, which brings

the possibility of comparing different national approaches in fields where the EU has no competencies (education, employment or social policy etc). The process does not involve “naming and shaming”; however, the annual monitoring reports allow some kind of ranking in various Lisbon policies and could unleash reform pressure on laggards.

This fact emphasizes, nevertheless, that the success of the Strategy depends very much on: a) a shared understanding in all European member states of the rationality and the sense of the Lisbon Strategy; b) the adaptability of the means and tools according to national requirements; and c) the willingness and the capability of national administrations to implement the strategic policy goals.

Despite the fact that all member states agree that structural reforms regarding competitiveness, knowledge-based society, sustainable growth and employment are needed, there are different approaches to achieve these targets, different starting points and challenges and of course very diverse societal structures and political cultures. Furthermore, there are obvious differences in the individual member states’ commitment to implementation efforts as well as to the structural reforms of the Lisbon Strategy. The most striking difference is still the divergence between old and new member states in the EU 27. Some old member states are sceptical and fear the further opening up of national markets, whereas the new member states are hesitant towards further harmonisation measures. For the new member states, more harmonization in tax policies or higher social standards will lead to a loss of competitiveness. Many implementation problems are rooted in the differences in the economic and social performance of the member states.

GENERAL RECOMMENDATIONS

Today, it is obviously too early to make specific suggestions for single policies for the third cycle, but two more general recommendations with regard to methodology are warranted:

- The Lisbon Strategy must pay greater attention to the prosperity gap between the old and new member states in the EU. Conceivable changes might include more flexible target corridors or a graduated quantification of employment rates, growth rates or the provision of national budget funding for research and development. The Lisbon targets for the Eastern member states (which are at the bottom of the performance list) might be different to the targets for the post-industrialized states in the West.

- As in 1988 with the Single Market Programme, the Commission should concentrate again on legislation to further complete the internal market. This programme should consist of legally binding harmonisation measures and should include timetables and concrete steps towards implementation.

The Lisbon Strategy toolbox includes a range of bureaucratic procedures to guide, implement and monitor the process. However, if one accepts the thesis that making the EU fit for globalisation, modernizing the European economy and enhancing competitiveness needs more dynamism, speed and flexibility of enterprises, personnel and administration, then the aims and the means of the Lisbon Strategy are contradictory. A common understanding in the EU 27 on three points of conflict is not in sight:

- On the political idea behind the Strategy, i.e. between supply-side or demand-side policy.
- On the internal dimension of the Strategy, i.e. the competition between old and new member states.
- On the external dimension of the Strategy, i.e. whether to react to the new competitors China and India by protecting European markets or by pressing for further liberalisation of global markets and securing equal conditions.

Political compromises will continue to characterise the Strategy. Any critic arguing that the strategy needs more focus will have to address the question of how to solve these inherent conflicts. This fact must not, however, lead to a deadlock, but rather to more flexibility, interlocking policies and the fine-tuning of measures. The “Lisbonisation” of European Cohesion Policy provides one case-study for such an approach. The interlocking of policies and the use of European funds to implement Lisbon-strategy measures should, however, be accompanied by the same approach in national policies.

It is the implementation of the Strategy and its fine-tuning that will be at the centre of the Lisbon policy of the Trio Presidency.

LISBON STRATEGY BEYOND 2010

Lukáš Pachta, Research Fellow, Europeum

The Czech Presidency of the European Union¹ in the first half of 2009 will have to deal with three issues imposed upon it by the context of events. These three issues are 1) negotiations on staffing of the new permanent posts created by the Treaty of Lisbon ; 2) the Lisbon Strategy beyond 2010; 3) reform of the EU budget beyond 2013. These issues may become too important and complex to allow attention to be paid to other political issues deliberately raised by the Czech government. This paper deals with the second issue, with special regard to the third one – due to the fact that competitiveness policy cannot be detached from the reform of EU budget spending. This paper analyses the Czech government's position² in these areas, with regard to positions of French and Swedish governments forming the EU presidency trio in 2008-2009. The paper concludes that the Czech position is far more inconsistent than the impression the Czech government aims to give. The author suggests that contradictions in the Czech position are mainly caused by the lack of involvement of actors other than government policy-makers and stakeholders in the preparation of positions.

GENERAL CONTEXT

The Lisbon Strategy, which aims to make Europe the most competitive and economically dynamic area of the world by 2010, will undoubtedly expire without meeting its ambitious goal. The 2005 review of the Strategy made some adjustments in order to make it more realistic. A similar kind of review is due for 2009 since the Strategy (possibly with different title) is expected to be prolonged beyond 2010. The first half of 2009 will be the last period of the current Commission under the leadership of José Manuel Barroso, who was a driving force behind the Lisbon Strategy as the Portuguese Prime Minister in 2000. The incumbent Commission chose this agenda (labelled "growth and jobs") to be its main priority. The Barroso Commission is therefore likely to launch follow-up discussions on the Strategy beyond 2010, as one of its last initiatives in the 2004-2009 term. The Czech government, together with the Commission, will be therefore expected to set the Lisbon Strategy issue on the agenda of the spring European Council, which usually deals with topics related to growth and jobs.

1. Precisely, presidency of the EU Council; form of presidency of the European Council depends on the entry into force of the Treaty of Lisbon .

2. According to the Czech Constitution (and general practice), it is up to the government to shape and implement the country's foreign policy, the role of the Parliament and the President, and other stakeholders, including think-tanks, is very small. This is why this paper focuses only on the government positions.

As for the budget review, the Commission has recently launched a political consultation³ on the new EU budget (both revenue and spending sides) for post 2007-2013 financial perspective period. This consultation will culminate with the submission of the Commission's White Paper on the budget review in late 2008 or early 2009; it is clear that the budget reform will feature amongst the top priorities and themes for the Czech Presidency.

THE CZECH GOVERNMENT'S STANCES⁴

The Czech Republic is rightly considered an economically liberal country. Most post-communist countries, both EU members and non-EU members, have adopted liberal reforms such as flat taxes or flexible labour laws. Although the Czech Republic's taxation rate is higher than in other post-communist countries, the Czech economy is far more open and dependant on exports (more than 60% of GDP depend on exports, mostly to the EU). The Czech Republic has been a target country of a significant number of Foreign Direct Investments, mainly in the engineering sector (car manufacture). Such an influx of FDIs can mostly be assigned to low labour costs and a qualified labour force. However, the Czech government is aware of the fact that the engineering sector is tremendously exposed to global competition, and especially to Asian emerging economies. Many experts suggest that countries with a similar economic structure to the Czech Republic are generally more vulnerable in terms of global competition. The added value of investing in the Czech Republic will gradually fall, with Asian countries becoming more competitive in terms of costs, work force qualification and technological standards. For this particular reason, during its presidency the Czech government will actively promote a policy of increasing European competitiveness and sustainable growth through innovation, and giving priority to R&D and education. At the same time, the Czech Republic is the biggest polluter in Europe per capita, and strongly opposes the carbon emissions reduction plans launched by the European Commission, arguing that such limits would limit Czech and European competitiveness and growth.

Given the motto selected for the Czech Presidency ("Europe without barriers"), it is expected that the most (symbolic) emphasis is to be placed on the free movement of persons and services. As far as services are concerned, they represent only 5% of intra-Community trade – and yet they account for more than 50% of GDP in developed economies. Removing barriers to the free movement of services is therefore likely to have a positive impact on European GDP growth. The impact of such a step on competitiveness is closely intertwined with the extent to which the free movement of services will cut labour costs, red tape and regulation. A willingness of other, less developed, WTO member countries to allow access

3. The consultation is labelled „Reforming the Budget, Changing Europe“. All European stakeholders are invited to provide input to the Commission - http://ec.europa.eu/budget/reform/index_en.htm.

4. For deep overview of the Czech government's stances and priorities for the presidency, refer to the official document "Priority Areas of the Presidency of the Czech Republic in the Council of the European Union in the first half of 2009", October 2007 - http://www.vlada.cz/assets/cs/eu/dokumenty/PRIORITN__OBLASTI_P_EDSEDNICTV__R_v_Rad__EU.pdf.

of European services providers to their markets is another important factor in this regard. As far as free movement of persons is concerned, some economists suggest good mobility is the only way to face asymmetric shocks efficiently in the Eurozone. The Czech government is pushing for the earliest possible end to the transition period for free movement of persons (inserted to the 2003 Accession Treaty), which can be prolonged until 2011. It is doing so mainly for political reasons, because the transition period is perceived by the Czech public as a sign of unequal treatment within the EU.

Regarding the budget reform, the Czech government affirms the absolute need to reform the EU budget both on its spending and revenue side. On the spending side, the official stance is that agricultural expenditures should be re-oriented towards more productive spending programmes such as competitiveness, innovation, research (setting up a true European Research Area), education etc. As to the revenue side, the Czech government advocates the idea of reducing or even abandoning the VAT-based income (for lack of transparency) and categorically refuses any idea of a European tax.

The positions described above are a matter of general consensus between the parties (with the exception of the Communist Party). It is therefore certain that any change of government before the 2009 Presidency – something unlikely to occur – will not trigger any change in positions on the discussed issues.

PITFALLS OF THE CZECH POSITIONS

The Czech government's position with regard to the Lisbon Strategy and budget review can be seen as clear, coherent and non-controversial. It is inherent to the Czech political discourse that the clearer the position of the country and the definition of the national interest, the easier it will be to run a successful presidency. This paper concludes such an assumption may be wrong. There are hidden problems in the Czech government's positions, stemming primarily from the fact that the official position may be in contradiction with the stances of various national stakeholders.

The Czech government's liberal approach towards the energy sector reform appears less solid when one takes into account the negative attitude of the Czech state-owned energy company ČEZ towards the unbundling of ownership in production/distribution, recently approved at the EU level. ČEZ is an influential stakeholder which is allegedly able to lobby governments to have positions changed or reversed.

On the other hand, the re-opening of the services issue, when the last directive comes into effect, is a genuine priority of all economic stakeholders in the Czech Republic (with the partial exception of the trade unions). Although there is no real incoherence in the Czech positions in this regard, problems might arise within the presidency trio – especially with the French Presidency. The French government is strongly opposed to re-opening

the services issue. The Ambassador of France to the Czech Republic, Mr Fries, openly warned the Czech government against such attempts.⁵ It seems the idea of setting a joint programme for the trio in this particular area is unfeasible both at a practical and symbolic level (the Czech Presidency motto is “Europe without barriers” whereas the French one is “l’Europe protection” – an attempt to counter fears of “liberal Europe” which resonated during the French referendum on the European Constitution in May 2005).

Another pitfall for the legitimacy of the Czech Presidency position lies in the research and education priority area, which is closely linked to the Lisbon Strategy. Although considered to be the most important challenge and concern for the Czech economy in the future, Czech spending on research or education are far from sufficient. The GDP ratio of R&D spending (public and private together – 1.42% in 2005)⁶ is below the EU average (1.9%). The situation is worse still in the education sector. The GDP ratio of education spending amounts to 4%⁷, which is one of the lowest figures in Europe (less than the former Yugoslav Republic of Macedonia or Ukraine). Moreover, reforming the education system, with the aim of preparing the population for tomorrow’s challenges, is a matter not only of spending money but also of curricula, structure, and approaches. The Czech education system and curricula guidelines are considered outdated.

Perhaps the biggest contradiction in the Czech positions applies to the CAP reform and budget review. The official Czech position states that the CAP spending must be reduced and re-oriented towards more economically promising areas. One has to bear in mind that this position was designed in the context of today’s CAP payments set-up. When the Czech farmers will reach 100% of subsidies after 2013, their position might change, along with that of the Ministry of Agriculture (a similar shift in position is likely to happen in Poland, Romania and other countries). Today, the Czech Ministry of Agriculture is an “incubator” of eurosceptics due to the proposed or implemented reforms of various sectors (e.g. sugar), which are said to be tailored to old member states’ needs. A major contradiction in the Czech position towards CAP reform appears when looking at the negative stance of the Czech government on the last Commission proposal⁸ for subsidies reductions. The Commission proposed to cut subsidies to large farms and re-orient them to rural development and landscape care. This proposition – praised by “liberals” and opponents of the CAP, and coherent with the long-term efforts at CAP reform – was rejected by the Czech government as going against the Czech national interest (Czech farms are usually larger than in other countries – a structure inherited from the Communist past and the era’s “joint agricultural enterprises”). Such a negative stance is understandable but there is a clear contradiction between the presidency programme and the real position of some of the country’s stakeholders. Nevertheless, the real Czech position represented by stakeholders – who are more reluctant than the Czech government to downsize the CAP – may unexpectedly converge with the French position. For now, though, the

5. He did so during a conference on EU presidency organised by “Ano pro Evropu”, October 2007.

6. <http://epp.eurostat.ec.europa.eu>.

7. <http://www.unece.org>.

8. Autumn 2007.

declared attitudes of the Czech and French governments are in contradiction to each other (the Czechs for reductive reform and liberalisation, the French for preserving the CAP).

CONCLUSION AND RECOMMENDATIONS

The controversies and contradictions in the Czech position described above may be a result of a lack of democratic deliberation and consultation by the government with the stakeholders, civil society or MPs. Economic (or national) interests can contradict ideology (and vice versa) and all these elements must be balanced. The right compromise can be reached only through deliberation with all relevant stakeholders. It is true that such contradictions and setbacks may damage the image of Czech “economic liberalism” but, on the other hand, they may unexpectedly facilitate the Czech government’s role of broker and consensus-builder during the presidency, and thereby help in the search for common ground with the French and Swedish governments. If the Czech positions are too rigid (in such cases, they would usually be based on a clear national interest), the Czech Presidency may weaken its legitimacy as a broker while being accused of promoting only national interests. On the other hand, contradictions and problems in positions imply that the government will have to be aware of more aspects of the problems dealt with, and balance conflicting views and stances. Such a discovery may help the Czech government to do its job during the presidency in 2009, when it will have to balance the contradictory positions of 27 countries, the Commission, the Parliament and a large number of European actors and stakeholders.

The presidency trio should:

- Put all major presidency issues (reforming the budget, free movement of persons, R&D, education, energy, etc.) under the umbrella of revised Lisbon Strategy beyond 2010 with competitiveness as common denominator and motivation.
- Cooperate henceforth with the Commission on launching the Lisbon Strategy review process.
- Strive for defining common ground for positions, even in the difficult CAP and budget reform issues.

The Czech government should:

- Involve all relevant stakeholders and the Parliament in deliberations on the presidency issues with an aim to defining positions which would embody all stakeholders’ stances.
- Favour trustworthy positions without searching excessively for simplicity and clarity of the “national” position or interest.

- Do its homework (reform and a spending increase) when declaring research and education a presidency priority.

- Reflect the more general political context of the EU: it should focus on issues with major importance for all 27 countries (which will in any case be imposed upon the presidency by circumstances) and take into account the positions of the trio (re-opening of the services directive, CAP reform).

- Define a better consensus-building strategy on important issues which will need to be dealt with, rather than inventing (new) national priorities.

GROWTH, EMPLOYMENT AND SOCIAL JUSTICE, THE LISBON STRATEGY NOTWITHSTANDING

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TWO RECONCILABLE PERCEPTIONS OF EUROPE

As Barry Eichengreen has aptly argued,¹ popular perceptions portray Europe as either an economic phoenix or a basket case. The phoenix perception holds that European (hourly) labour productivity has increased spectacularly since the end of World War II, climbing from 50 percent to nearly 95 percent of US levels on average, whilst levels of labour productivity in some European countries have risen well above US levels. Also, since the beginning of the new century, employment growth in Europe has shown signs of improved resilience, associated with increasing employment rates – even if these still lag behind US rates, on average. Moreover, income inequalities in Europe have historically been narrower than in the US, and European citizens have generally enjoyed universal access to a wider array and of higher-quality social and public services than US citizens. Europeans also show a stronger interest in democratic politics, reflected in a keener and deeper participation than in the US.

On the other hand, the basket-case perception reflects the fact that European output and productivity have grown at lower rates than in the US since the mid-1990s. This has ended a nearly 25-year long period of almost-stable relative per-capita output and caused a trend of diverging living standards. With lower productivity growth than the US, Europe has since the mid-1990s been failing to offset its relative deficiency with regard to the labour input, which arise from lower employment rates and shorter work hours; recent increases in European employment rates have largely been linked to the creation of low-productivity jobs. Labour-market rigidities, product-market regulatory failures, financial-market shortfalls, inadequate R&D spending, distorted public expenditure patterns and high tax rates have all taken their toll on European employment and productivity growth. What is more, those policy and institutional shortcomings may be reinforcing the impact of adverse demographic developments on economic growth prospects. Thus, not only has the desirability of the European economic and social model been put in question, but its long-term sustainability has also been cast into doubt.

Those seemingly opposed perceptions of Europe are neither analytically nor normatively irreconcilable. Over the second half of the twentieth century European economic

1. *The European Economy Since 1945*, Princeton and Oxford: Princeton University Press, 2007.

performance was remarkable, both in absolute terms and relative to the US – thus broadly confirming the phoenix perception. But over recent years this performance has been falling back, giving rise to anxieties about the economic future of Europe and providing substance for the basket-case perception. Furthermore, European economic success over the second half of the twentieth century – mostly over the two and a half decades following post-war reconstruction – was largely predicated on importing technology from the US, increasing investment shares and securing a labour supply to industry, inter alia via rural exodus and sometimes by international migration. Economic openness and the development of welfare-state institutions, along with market interventionism, had all worked as enabling factors; the welfare state had assumed a primary role, strongly associated with its insurance-*cum*-redistribution function, which compensated for the adverse domestic effects of economic openness.

However, Europe has now closed the gap separating it from the technological frontier; its productivity and output growth are no longer dependent on importing technology and accumulating capital. European productivity and output growth has, instead, been increasingly reliant on new technologies and innovation; it is now therefore firmly premised on entrepreneurship, the creation of knowledge and pooling of talent. In consequence, the European welfare state – in particular its labour market policies and institutions which traditionally stress job security; its wage egalitarianism and vocational training; and its financial systems and corporate governance models which put a premium on long-term relationships – has increasingly proven ill-suited to the facilitation of economic growth. Nevertheless, since global trade and capital integration are both strongly desired for their effects on productivity and growth, and since both directly challenge traditional European export industries, the political-economic case for a redistributive welfare state remains strong.

Complying with the requirements of modern economic growth should arguably entail wide-ranging and far-reaching reform of economic and social institutions. Yet dismantling the European economic and social model does not seem advisable, nor has it been attempted. Reform of the welfare state and economic regulation should aim at mitigating policy-induced distortions of economic incentives, thereby discouraging choices which imply high social-opportunity costs, e.g. reduced effective labour supply. Put in other terms, reform of economic and social institutions should aim at allowing European societies to make the best possible trade-offs between efficiency and equity, thus maximising their ethically-weighted social welfare functions. However, reform of the European economic and social model might not result in European employees opting for leisure at the same rate as US employees, or working for an equal number of hours. Nor might it lead to convergence in preferences for redistribution between European and US citizens. Those are matters of tastes, social cultures and institutional histories. By the same token, it is plausible that European welfare-state reform might not raise expectations of eventual convergence in average living standards between Europe and the US – something to be thankful for, students of the economics of happiness might add.

STRUCTURAL REFORMS AND THE ROLE OF THE EU REVISITED

Wide-ranging and far-reaching reform of the European economic and social model may, in principle, entail no less than a radical overhaul of the regulatory and institutional framework of product, financial and labour markets, as well as a restructuring of public finances to make them solvent and sustainable. Those structural reforms may pose a daunting task for democratic (and electorally non-suicidal) governments and national political systems, for the principal reason that the benefits and costs of the reforms are unevenly distributed amongst individuals, socio-economic groups, geographical regions – and also over time, albeit in ways that differ between policy areas. Yet, as has often been said, structural reforms may be both achievable and sustainable. Those embracing a systemic view of the European economic and social model, whereby various complementarities between policy areas are deemed functionally indispensable and politically crucial, may therefore plausibly imagine that reformist governments might need only to vigorously confront the regulatory failures and institutional rigidities in one policy area in order to facilitate structural reforms in other areas. In fact, it may have been possible to put in place – wisely and perhaps even uncontroversially – an almost ideal sequence of structural reforms following the establishment of the internal market associated with product and financial market deregulation. It has accordingly been argued that in a world of lower rents – related to product market deregulation – and higher elasticity of labour demand (linked to financial market liberalisation and high capital mobility), reform of labour-market institutions may follow almost inevitably as European trade unions adjust to the changing circumstances. The European Monetary Union (EMU) may have further reduced trade unions' resistance to labour-market reform, firstly by effectively increasing both market competition and the elasticity of labour demand, and secondly by removing a policy instrument that was meant to withstand country-specific external economic disturbances – thereby placing a premium on swift market adjustment. What is more, product- and financial-market deregulation and, for that matter, institutional reforms in those areas, have often been directly enforced and/or dictated by Brussels, which has allowed national governments to spend most of their precious political capital on labour-market and social-policy reform.

In fact, this has broadly been the logic underlying the Lisbon Strategy, much inspired by the so-called “there-is-no-alternative” view of structural reforms; this view itself reflects a certain perception of the dynamics of European economic integration, in conjunction with the aforementioned systemic view of the European economic and social model. Indeed, whether in its original emphasis on diffusion of best practice, peer pressure and policy learning, or in its mid-term renovation and relaunching – which entailed refinement of policy guidelines, streamlining of open coordination processes, and addressing issues of national ownership – the Lisbon Strategy has mostly been concerned with technical and procedural aspects of structural reforms. The implicit assumption was that the need for those reforms has largely been appreciated by national governments, whose commitment to reform is thereby strengthened.

However, there has been scarce empirical evidence to validate the Lisbon Strategy's approach to structural reforms. For example, it has been observed that the pace and intensity of reforms, and governments' commitment to them, have varied considerably across member states; meanwhile, progress has also been uneven across different policy areas. Furthermore, implementation of the Lisbon processes has barely changed relative national attitudes towards reforms and has little affected relative policy quality – let alone relative economic performance. Interestingly, too, a sort of reform fatigue has affected both the pace and content of Community policies to complete the internal market for services and remove obstacles to labour mobility. This is less so with regard to initiatives to simplify regulation and reduce burdens on business.

Since the beginning of the present decade, European labour market performance has been constantly improving: there have been significant reductions in unemployment rates and a notable increase in employment rates. A trade-off between employment and productivity growth has nonetheless been evident, most pronounced in member states experiencing stronger employment growth and more frequently observed in low-growth “old Europe” than in fast-growing “new Europe”. Those developments are causally related to the pattern of reforms that have already been implemented in European labour markets, which has often entailed partial relaxation of employment rules. The result has been two-tier labour market institutions, as well as changes in active work policies, unemployment benefits and labour taxation; early retirement, regular employment protection and wage-setting institutions have been little affected. Low-productivity and low-wage job creation – associated with increasing use of so-called flexible employment contracts – has evidently been encouraged by those, mostly marginal, reforms and has significantly contributed to European employment growth.

Structural reforms may in fact barely conform to a self-perpetuating learning process, almost inexorably spilling across policy areas, as is implicitly assumed by the Lisbon strategists. Labour market reforms in particular have largely been shaped by political considerations – which were initially prompted by the uneven distribution of benefits and costs from reforms, and subsequently influenced by shared perceptions of fairness and distributive justice and often by interest group politics; the perceptions of fairness serve occasionally to add ideological legitimacy to interest-group demands. Proliferation of flexible employment contracts, often associated with precarious jobs, may have nothing to do with inclusiveness, security and fairness in the labour market; instead, it increases the incidence of low-wage employment, and reduces competitive pressures on core labour-market insiders.

The chances of comprehensive labour-market reforms being implemented may, thus, largely depend upon improving their distributive effects – in particular, increasing the benefits from reforms and bringing them forward, whilst discounting their costs and providing for adequate compensation to those bearing most of the burden. Comprehensive labour-market reforms may nonetheless put an end to the proliferation of flexible job contracts, thereby

also dissociating employment growth from low-productivity, low-wage jobs, and reducing the influence of rent-seeking and interest-group politics in the labour market; rent-reducing, productivity-enhancing product market reforms may thus become more achievable. A higher employment and productivity growth path for Europe may therefore be accessible.

The crucial issue then becomes how to bring closer a better, fairer and more politically sustainable distribution of benefits and costs from structural reforms, especially reforms of labour market institutions. Fiscal policy may be cushioning temporary increases in the output gap associated with structural reforms, thereby averting short-term yet politically undesirable increases in unemployment. The budget may also be footing the bill of compensation packages granted to reform losers so that they stop resisting policy change and/or funding policies to bring employment gains forward. Although the reformed Stability and Growth Pact may, in principle, allow for temporarily conditioning of fiscal consolidation on practicing structural reforms, much depends on its implementation. Yet a loose implementation of the Pact may arguably jeopardise the credibility of its fiscal rules, harming its contribution to stable public finances. On the other hand, an accommodating monetary policy stance may, in principle, be conducive to structural reforms, by providing for a better-balanced and more tolerable distribution of gains and losses over time and across market participants. But in practice a monetary stimulus to structural reforms may only be in short supply, as it would take a great deal of (perhaps inflationary) monetary easing to cater for divergent short-run labour market and macroeconomic equilibria.

Convincing arguments have been made that European macroeconomic policy, especially monetary policy, should be more flexible, hence taking more into account output and employment – particularly given widespread real labour market rigidities, which give rise to (un)employment persistence. However desirable it might be, a (realistically not much) more expansionary monetary and macroeconomic policy might only slightly compensate for a fundamental weakness of the EU economic governance system, namely its failure to provide adequate incentives for comprehensive reforms of product and (mainly) labour markets – either in the form of sticks or, most importantly, carrots. This being so, stimulating structural reforms may better be accomplished via a system of financial incentives, in effect transfers of EU funds aiming at rewarding effective policy efforts and alleviating political-economic constraints to structural reforms. Specifically, EU financial resources may entail supporting national government policies and supplementing national budgetary resources in order to obtain a socially tolerable and politically acceptable distribution of gains and losses from structural reforms. For instance, EU support may be granted to – and reward – policies aiming at making work pay, or simplifying employment protection legislation. Accordingly, EU resources may provide for lower national spending cuts and/or tax increases than would otherwise be the case; or they may be used to (co-)finance compensatory measures for those left worse off following reform.

While drawing on the experience of the recently established European Globalisation Adjustment Fund, the aforementioned proposal goes many steps further and even gets

into the (sacred) area of redistribution, albeit not unconditionally. The Lisbon Strategy may thus be considerably strengthened and its national ownership may be substantially increased something that would help comprehensive structural reforms and raise expectations for better economic performance. After all, the Lisbon Strategy should not only be about policy learning: informal policy-learning processes may equally be effective, to say the least. And Europe should not only be about growth: equity and redistribution have seldom been left aside, to say the obvious.

CONCEIVING A “LISBON III” BEYOND THE CONTRADICTIONS OF THE EXISTING STRATEGY

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During the 1990s, the differences between sluggish economic growth in Europe and the massive investments in information and communication technologies in the United States pushed the EU to launch the so-called “Lisbon Strategy”.

Its formulation in 2000, sometimes qualified as somewhat liturgic,¹ was to make the EU “the most competitive and dynamic knowledge based economy in the world, capable of sustainable economic growth with more and better jobs and great social cohesion”. After eight years, it is now clear that the claimed goals will not be achieved in 2010. Nevertheless, within an EU with 27 different countries, the need for a common strategy is unquestioned. Consequently, the next three presidencies will have to prepare a new version of the strategy, which will accompany European economies until 2020.

After a short sum-up of the results of the first eight years of Lisbon I and II, we will ascertain the main reasons for its relative failure, and then present solutions for the improvement of the Strategy.

A DISAPPOINTING EVALUATION OF LISBON I AND II

Far from the hopes aroused at the beginning, the Lisbon Agenda did not live up to European expectations, leading Brussels to ask for a first report in 2004.

The Kok report (2004) headed up a review of the Strategy, blaming it for its overloaded programme and a lack of political will on the part of member-state governments.

However, its proposals aside, many economists and political scientists criticized the report. Some claimed that it did not take into account the incoherence between the different goals of the Strategy, or the inconsistency between instruments and goals.² Others mentioned the economic rigidities of member states, as well as the poor overall economic

1. Creel J., Laurent E., Le Cacheux J. (2007), « La stratégie de Lisbonne toujours engluée dans la tactique de Bruxelles », in *Rapport sur l'état de l'Union 2007*, Paris, Fayard, p. 71-90.

2. Pisani-Ferry J., Sapir A. (2006), “Last Exit To Lisbon”, *Bruegel Policy Brief*, Issue 2006/02, March ; Creel J., Laurent E., Le Cacheux J., (2005), “La stratégie de Lisbonne engluée dans la tactique de Bruxelles”, *ibid.*

situation burdening the reforms.³ In spite of these numerous criticisms, the Commission chose to stay within the original lines of the strategy.

The current context makes it easy to see Lisbon II (2005-2010) as a relative failure. Recent works emphasize that results are somewhat far from the announced goals.⁴ The average EU growth rate during the 2002-2006 period was only 1.9%, and prospects for the coming years are unpromising. The original figure of 3% will not be achieved. Concerning employment, the other central subject of the Lisbon Process, the results are contradictory: satisfying employment rates for women and aged workers, but far less impressive in terms of overall employment and rates of youth unemployment.

Only the goals concerning the completion of the single market, and those relating to the reduction of public debt and deficits, are clearly in line with thresholds adopted by the European Council in 2000. For other ambitions results remain decidedly various depending on the country, a fact which attests to the heterogeneity of economic situations between member states.

The Lisbon Strategy has at best had mixed results, at a time when the rise of new challenges in the international arena⁵ demands an assertive common strategy. This relative failure essentially can be explained by weak instruments and an economic framework that was too rigid to accommodate short term needs. The theoretical framework of the Lisbon Strategy and its economic and institutional framework have opened the door to individualistic economic policies, prejudicial for economic growth in the EU and not a sufficient incitation to conduct concerted reforms.

AN EXHAUSTED ECONOMIC AND INSTITUTIONAL FRAMEWORK

Within an economic area as integrated as the European Union, a state's economic policy produces positive or negative spill-over on its partners, depending on trade and financial links between the countries. These effects are stronger each year, growing as European integration deepens,⁶ and even more true in the euro area, where member states cannot use their monetary policy to adjust to economic disruptions. Consequently, mechanisms that bring economic policies closer together are essential.

3. Cette G., Fabry E., (2005), "L'Europe se donne-t-elle les moyens de ses ambitions ?", *Futuribles*, n°310, juillet-août, pp. 32-39.

4. Bertoncini Y., Wisnia-Weill V., (2007), "La Stratégie de Lisbonne : une voie européenne dans la mondialisation", *Conseil d'Analyse Stratégique/Fondation Robert Schuman*, septembre ; Cohen-Tanugi L., (2008), "Une stratégie européenne pour la mondialisation", *Mission L'Europe dans la mondialisation*, rapport d'étape, 15 janvier.

5. We can quote the rise of environmental concern, the new power of emerging economies, or the scarcity of global finance. See for example, the previous report of Cohen-Tanugi L., (2008), *op. cit.*

6. Baldwin R., (2005), "The Euro's Trade Effects", prepared for ECB workshop "What Effects is EMU Having on the Euro Area and its Member Countries", *European Central Bank*.

Heads of government have created instruments to coordinate economic policies. The Lisbon Strategy, with its diverse objectives, applied the Open Method of Coordination (OMC) in order to push countries to adopt best practices at the European level. Lisbon is also integrated into the European economic framework set out in the Maastricht and Amsterdam treaties: the Stability and Growth Pact, and the Broad Economic Policy Guidelines. These two instruments were supposed to encourage the coordination of national economic policies and in this way to counter the heterogeneity of European economies. The problem is that neither the OMC nor the Maastricht framework has reached its goal.

After the first ten years of European Monetary Union (EMU), the advantages of the strategy adopted in 2000 are not yet proven. The facts show that strengthened coordination is far from being achieved. Germany, facing the economic and social consequences of its reunification, has engaged a very restrictive policy. This policy, agreed to by the most important trade union of the country, has mandated a short-term wage-freeze, which has dangerously impeded consumption. The effect of the policy has been to undermine demand for products imported from France and Italy. As Germany's two neighbours cannot apply the same reforms, their trade deficit has grown over the last few years. This could be considered as an incentive for these countries to undertake the same types of reforms as Germany.⁷ The problem lies in the fact that GDP growth in France is based on internal consumption. In that context a restrictive policy such as Germany's can be harmful for the French economy in the short term and could make it more difficult for France to adopt the long-term measures of the Lisbon Strategy.

A different situation applies in Spain. Since its accession to the euro area this member state has benefited from the inefficiency of the European economic framework. With a positive inflation differential, the Spanish economy has experienced weak or even zero real interest rates. This has allowed the country to build robust economic growth, which in turn has created an inflationary cycle. Spain's opening is allowed by the relatively small size of its economy (here including demographic factors, and in comparison to its European partners). Its small weight in the euro-area economic fundamentals means Spain has a weak influence on European monetary policy. The example reveals the relationship of a country's size with its adjustment to economic disturbances in EMU (or in the EU). Whereas (relative) small economies, more open to international trade, face relative flexibility with regard to restrictive policies, larger countries find it more difficult to adjust. This could be called the *relative force of inertia* of larger countries in EMU.⁸

7. We can consider the German policy as a "new" competitive disinflation policy, as it is suggested by Creel J., Laurent E., Le Cacheux J., (2006), "La nouvelle désinflation compétitive européenne", *Revue de l'OFCE*, vol. 98, pp. 9-36.

8. For a wider presentation of the theories of country size, and the analysis in the EU/EMU context, see for example Archer C., Nugent N., (2006), "Does the Size of Member States Matter in the European Union?", *Journal of European Integration*, vol. 28, n°1, pp.3-6.

To summarize, in EMU heterogeneity comes mainly in two forms: asymmetry between smaller and larger countries, and different economic and political preferences. These differences between countries are completed by structural differences.

Ten years after the birth of EMU, heterogeneity between European countries seems to have increased – whereas the objectives of the Lisbon Strategy and the European treaties was homogeneity of national economic performances!

It is not the European institutions' fault, but rather the failure of European instruments that has favoured spineless coordination over homogeneity.⁹ The Lisbon Strategy reflects the general picture of political choices made since Maastricht: Yes to a monetary union, No to a real economic union. There is no lack of ambition in Europe's objectives, and the Lisbon Strategy is imperative – as was the similar initiative made in Edinburgh in 1992. But there seems to be a sore absence of institutional imagination and collective generosity on the part of European Heads of State and Government. They did not give the European project the means to achieve its ambitions,¹⁰ as is perfectly illustrated by the disclosure of the thresholds of financial perspectives for the period 2007-2013. This situation is clearly a source of the frustration and wariness of populations towards the European construction. The rejection of the constitutional treaty in 2005 may perhaps be explained by this picture of a Europe of "un-kept promises".

If long-term (2010 horizon) objectives are essential to a bold and visible Lisbon Strategy, short-term economic developments must be taken into account – especially if the coordination mechanisms are not playing their role, and considering that the euro area is now a fifteen-country area. Germany has succeeded thanks to its decentralised wage-negotiation system and the "spirit of sacrifice" of its trade unions, which hope to see the employment payoff of the restrictive policy. Nevertheless, wages are not rising as expected and promised by the coalition and the consultants.

The European constraints weighing on national economies are increasingly painful: on one hand, respect for the Stability and Growth Pact; on the other, the structural reforms demanded by Lisbon. As a consequence, the *force of inertia* of large member states presses them to find an internal consensus on riskily restrictive policy (the German example), or to attempt minimalist reforms (the French or Italian examples).

The long-term objectives of the Lisbon Strategy are essential, but it is necessary to focus on the short term economic and political drawbacks which are hindering governments and preventing them from undertaking reforms. Unfortunately, the economic and institutional framework does not allow the separate economic situations of the member states to be taken into account.

9. Vigna O., (2006), "La stratégie de Lisbonne", *Bulletin de la Banque de France*, n°151, juillet, pp. 19-32.

10. To measure the institutional threats of structural reforms, see for example Tabellini G., Wyplosz C., (2004), "Réformes structurelles et coordination en Europe", Conseil d'analyse économique, n°51, *La documentation française*, Paris.

In this context, defining a coherent and efficient “Lisbon 2020” demands deep collective thinking on common action to deal with the current economic situation, in parallel to the structural policy set out in the Lisbon Strategy.

FOR A BETTER ECONOMIC GOVERNANCE WITHIN LISBON III

The reform of European institutions launched by the Commission and continued by the Convention was focused on fostering common institutions. But while it is true that the EU needed these new structures, the lack of pan-European macroeconomic policy in EMU should not have been forgotten as it has been. This absence of European economic governance could do deep and lasting damage, as it exposes the ECB – an institution easily identified as European in Europeans’ minds – the charge of carrying responsibility for the economic performance of the eurozone.

Asymmetric macroeconomic integration (centralized monetary policy with decentralized fiscal and social policies) tends to give the ECB excessive responsibility for economic conditions. Criticism of Frankfurt’s monetary policy which arose during the recent French electoral campaign illustrates the trap in which the European project is caught: making the ECB a scapegoat risks discrediting the European integration process.¹¹

The other strategic error of the last ten years was to retain the Frankfurt/Brussels consensus without changing it. The Lisbon Strategy, inspired by this consensus, posed many interesting questions: on the links between labour market flexibility and professional training, on the impact of education and innovation in the politics of growth, etc. However, as the French economist Christian de Boissieu reminds us, “*to tackle macroeconomic policies and structural reforms separately is simply to be on the wrong track*”.¹²

Economic growth is defined as much by its long-term characteristics as by short-term economic policies. This does not mean that the monetary policy led by the ECB deserves blame; in fact, we consider that since 1999 the ECB has made far fewer mistakes of economic policy than the national governments. However, it is now time to “discover” the role of fiscal policy and the “policy mix”, with a general thinking exercise on fiscal federalism and the prospects for what might be called the Short Term Stabilization Fund (STSF).

A fund already exists: the European Globalization Adjustment Fund. It was launched two years ago, indicating a small but clear change in Brussels’s understanding of globalization. This new instrument allows employees affected by company relocations to undertake new training in line with “all life-long objectives”. Unemployment is not seen as an

11. See the call “For a macroeconomic policy in Europe”, given the the 27th of February by European economists gathered around Nobel prize Robert Solow, on the Centre Cournot’s website : <http://www.centrecournot.org>.

12. De Boissieu C., (2006), “Politique économique et croissance en Europe”, Conseil d’analyse économique, *La documentation française*, p.5.

inevitable consequence of global competition. The fact that an equivalent to the fund was created 40 years ago in the United States underlines a particularly European conception of globalization, naive and rooted in the past. But the European adjustment fund remains too poor to counter the European problem of large countries, as we have emphasized. This is why a Short Term Stabilization Fund (STSF) is essential. We consider the euro area as an “orphan” of macroeconomic policy; EMU must constitute an advanced level of institutional European integration, and not just an addition to the EU.

Nevertheless, in realistic terms we consider the creation of a global euro-area fund as a difficult political initiative – if not impossible in the short term. Even if numerous French politicians and economists demand a genuine macroeconomic policy in the euro area, the decision belongs in the end to Brussels and to the necessary “European compromise”. The political negotiations may be drawn-out before a decision on a European solution is reached. Another, more immediate, solution is called for.

Neither Lisbon I nor Lisbon II are well-understood – or even known of – by local (i.e. regional) politicians and by government officials. We emphasized in this text the need for better national understanding of European action, in the context of an inefficient economic and European institutional framework. We have also demonstrated the problem of the *inertia* of large economies. A strengthened link between local politicians and the European Committee of the Regions is therefore essential to foster decentralization in large countries and to encourage change. A Europe closer to its inhabitants is as important as a more flexible economic and institutional framework in the search for a European policy response to globalization.

EUROPE'S FUTURE INTERNAL MARKET – A KNOWLEDGE ECONOMY WITHOUT BORDERS?

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The internal market is at the heart of European economic integration. It is the key driver for increasing Europe's competitiveness and thus for Europe's ability to continue generating the economic growth needed to sustain Europeans' quality of life. At the same time it is also a very important political project that enjoys widespread support at a level rarely seen for other EU policy areas.

The principles of the internal market and its four freedoms – goods, services, capital and persons – were set out in the original Treaty of Rome. These freedoms continue to be central to the internal market as we know it today. However, establishing the internal market has been a drawn-out process and in some areas it remains incomplete.

In this paper, we explore the internal market's current status and the progress which has been made in recent years. We then speculate what the key features of the future Single Market might be and, on this basis, make recommendations on the focus of EU policy and the agenda for the French, Czech and Swedish Presidencies.

THE CURRENT INTERNAL MARKET

Most progress in the internal market has been achieved in the free movement of goods, driven both by political decisions and through European Court of Justice (ECJ) "case law". Key milestones were the abolition of internal tariff barriers, achieved by 1968, and the Cassis de Dijon case in 1979 which established the principle of mutual recognition of product standards across European borders.

Non-tariff barriers, which limited the creation of an integrated internal market, were only decisively tackled in the "Europe 1992" project, starting with the Single European Act in 1986. This led to the creation of the internal market by the end of 1992, patrolled and enforced by the Commission and the ECJ.

In addition to the free movement of goods described above, the internal market also covers the free movement of persons. With some exceptions for Central and Eastern European Countries (CEECs), most barriers to the free movement of EU citizens have been removed.

With most overt barriers removed, attention has shifted to the broader framework which can facilitate mobility. For example, there are still disadvantages in terms of public pensions and healthcare that can arise for people moving across EU borders. Similarly, the incomplete recognition of qualifications across the EU can still hinder mobility.

The free movement of capital has also largely been achieved. However, for individual consumers, removing barriers, in itself, is not sufficient. There is a similar need to create the right framework conditions. Recent moves to open up the consumer credit market and to facilitate payments across Europe are part of this process.

Business and consumers also need to know that their rights are protected when they trade across EU borders, and the Commission is currently attempting to significantly strengthen the consumer protection framework. At the same time, the Commission is attempting to improve the business environment, for example in areas such as company law and corporate governance.

Services have been a particular challenge in European economic integration. Although some principles of service provision were contained in the original internal market programme, the growth of the service economy since 1992 prompted a new approach.

The Commission proposed a Services Directive in 2004, which provided for free movement of services across the Union. The implications of this Directive sparked a heated debate, especially in France and Germany. That debate was in many ways similar to the debate accompanying the 1992 internal market process, although this time it was focused on the free movement of people rather than goods, reflecting the strong emphasis on persons in the service economy.

The Services Directive ended up excluding a wide range of services from its scope and the country of origin principle (which would have made trading across borders significantly easier) was in effect taken out. The Directive also includes a wide range of possible reasons which might be invoked by member states to limit the free movement of services.

The amended Services Directive was finally passed in 2006, to be transposed into national law by 2009. It is far less ambitious than originally envisaged and in many areas the free movement of services is still more of an ambition than a reality, especially in light of the variety of exceptions in public services, network industries and the financial services sector.

The internal market also has an external dimension. Europe is benefiting from global trade and investment flows, while at the same time having to deal with the challenges arising from globalisation. The interaction of the internal market with the global economy is an important consideration for future policy.

IMPLEMENTATION: TRANSPOSITION AND INFRINGEMENTS

The internal market is based on a wide range of legislation. How far this legislation is transposed into national law and to what extent there are infringement procedures against individual member states – such questions are useful indicators of the effective implementation of internal market provisions.¹ Commission research has highlighted that slow and sometimes incomplete transposition has been one of the significant barriers to the internal market in the recent past.²

The legislation associated with the original internal market programme has been more or less implemented, although with delays and difficulties. A key challenge was the implementation of this set of laws in the new member states. The EU has experienced three waves of accession since 1992, the majority being ex-communist CEECs. Despite some transition arrangements which were put in place, these countries faced an immense task of transposing a large number of EU laws into their national law.

In relation to the internal market, member states have now transposed the vast majority of EU laws. The EU27 transposition deficit (the percentage of laws not yet transposed into national law) is 1.2%. Only five member states fail to reach the 1.5% target: the Czech Republic, Luxembourg and Portugal lag well behind, with Poland and Greece close to reaching the target.

One issue is the transposition of internal market directives; another is the quality of the implementation. Clearly, the European Commission's task of checking the quality of transposition has been made more difficult with the membership going from 12 to 27 member states and the diversification in languages as well as legal and administrative cultures.

One way of looking at the quality of transposition is to look at the infringement cases raised by the European Commission. On average, in the EU27, each country has 49 open infringement cases. The worst performers are Italy (134), Spain (113), France (98), Germany (89) and Greece (88). None of the new member states appear high up but this might reflect their relatively recent date of entering the EU.

It is clear that continued vigilance is needed to ensure that internal market provisions are implemented. More progress needs to be made in some policy areas and countries, and the implementation needs to be pro-actively checked and enforced. If there is inconsistent implementation across member states, with variations across different policy areas, the

1. Data in this section from the internal market Scoreboard No. 16, December 2007 http://ec.europa.eu/internal_market/score/docs/score16bis/score16bis_en.pdf.

2. "Steps towards a deeper economic integration: the internal market in the 21st century", Ilzkovitz, Dierx, Kovacs and Sousa, European Commission Economic Papers N° 271, January 2007 http://ec.europa.eu/economy_finance/publications/publication784_en.pdf.

internal market will be incomplete and businesses will still be faced with significant legal uncertainty across borders. This can be aggravated by the time it takes to pursue cases through the EU legal system.

Current policies such as the SOLVIT process³ aim to address implementation issues faster and through a less cumbersome route. In addition, the cross-cutting Better Regulation initiative also aims to improve the way European laws are made and implemented. While these have been positive starting points, more needs to be done to ensure consistent implementation and quick resolution of differences between member states.

Overall, the transposition and infringement data suggests that implementation is progressing. It remains to be seen whether the latest provisions, on services and capital as well as the wider internal market framework (for example in areas such as consumer protection) will be transposed quickly and implemented consistently.

NEXT STEPS FOR THE INTERNAL MARKET

The Commission's Single Market Review,⁴ published in November 2007, proposes a noticeable shift in focus: from removing barriers to proactively promoting the functioning of the internal market. It aims to empower consumers for example through contractual rights and collective redress. There will also be more examination of individual markets and the consumer scoreboard will show where the internal market is functioning well and where it still needs further progress.

The Commission also aims to encourage growth in small businesses and support knowledge and innovation, for example through a mobility passport for researchers. There is also a recognition that the internal market has to have a social and environmental dimension and that globalisation needs to deliver concrete results for European citizens.

On implementation, there will be a stronger focus on better day-to-day management of the single market and the Commission proposes to clarify the implementation of community rules with regard to services of general interest, i.e. public services.

So is the current Commission work programme ambitious enough to make the single Market fit for the future?

3. SOLVIT is an on-line problem solving network in which EU Member States work together to solve without legal proceedings problems caused by the misapplication of internal market law by public authorities. For further detail please see http://ec.europa.eu/solvit/site/index_en.htm.

4. 'A single market for 21st century Europe', COM(2007) 724 final. http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0724en01.pdf.

KEY CHALLENGES FOR THE FUTURE

There are still a range of barriers to the functioning of the internal market. These include different languages and cultures, variations in national taxation and social systems (pension, health, unemployment etc.) and the reluctance of consumers to use e-commerce across borders. In addition, the internal market is still divided between those who operate with a single currency and those outside the euro-zone.

Not all of this will be addressed by, or even amenable to, EU action but in at least two clear areas the EU has competences and a range of policy instruments. These are services and the fifth freedom – that of knowledge.

In its own research, the Commission recognises that there is a persistence of barriers to cross-border trade and investment in services and that the internal market for knowledge needs to be developed further.⁵

The Services Directive means that, to some degree, the internal market has been adapted to how Europe has developed economically: towards reduced economic importance of manufacturing and an increase in the economic importance of the service economy.

The service sector now generates around 70% of European GDP. Services cover many different activities, from low to high-value added, some using a high degree of Information and Communications Technology (ICT) and innovation, and others personal in nature. Services cover business services, transport and logistics, financial and public services, care, retail, travel and leisure.

Consequently, there is a need for a more differentiated look at the service sector which should also lead to a more differentiated approach to the regulation of its activities at the European level. And the internal market needs to be applied increasingly across all types of services, with current exceptions being removed.

In addition to completing the internal market for services, there needs to be recognition that the challenges for free movement change over time and that there is a constant need for adaptation and change of focus of the process. It is timely to look at the internal market in the perspective of the emerging knowledge society, and review free movement provisions in this light.

A “fifth freedom” needs to be established – the free movement for knowledge, going beyond current ambitions to enable researchers to move more freely, helped by the creation

5. “Steps towards a deeper economic integration: the internal market in the 21st century”, Ilzkovitz, Dierx, Kovacs and Sousa, European Commission Economic Papers N° 271, January 2007 http://ec.europa.eu/economy_finance/publications/publication784_en.pdf.

of a European Research Area. This fifth freedom must address the new challenges which arise when moving from the real world to the virtual one where intangible assets are constantly moved about.

For example, methods of protecting intellectual property rights will have to change completely, when products are developed through open source or when electronic products or entertainment can easily be downloaded from anywhere on the planet.

The issue of free movement of people also acquires a very different dimension when knowledge-based work is provided in cyberspace rather than by physical presence in a given territory. This raises a range of issues for public service delivery and financing, not least in relation to direct and indirect taxation.

The list of issues to be tackled goes much further: competition law and its application will also have to be adapted, not least when it comes to defining the relevant market territory if the provision of services takes place in cyberspace. Development of relevant infrastructures (partly financed by the structural funds) should focus more on infrastructure for the virtual world than physical infrastructures. Consumer protection will have to effectively address cybercrime. Governments will provide a wide range of services online. This list could be continued much further but to explore fully what the fifth freedom would entail is beyond the scope of this paper.

At the very least, at the EU level, it is time to start thinking about how the internal market can be adapted to these developments. Without a more forward-looking approach to the establishment of the fifth freedom, the EU might be left behind when it comes to benefiting from the new developments which will drive the knowledge economy.

While the EU has recently recognised the importance of the fifth freedom,⁶ this needs to go much further than current ambitions. Enabling researchers to move more freely between EU member states and creating the European Research Area is only a first step but more needs to be done during the coming presidencies to come up with concrete proposals to make this fifth freedom a reality.

6. Brussels European Council, 13/14 March 2008, Presidency Conclusions: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/99410.pdf.

THE FIFTH FREEDOM – A PRIORITY FOR THE FRENCH, CZECH AND SWEDISH PRESIDENCIES

More needs to be done at the European level to make the internal market fit for the future. Delaying the next steps further could have significant implications for European competitiveness over the coming decade.

In particular, there is a range of actions which should be started now, to prepare the ground for the priorities of the next Commission, to be appointed in autumn 2009. At the same time, the long term shift in focus of European economic policy needs to start as soon as possible to ensure timely action.

Concretely, there are 10 specific priorities which should be on the EU agenda in the near future. Each would produce real economic benefits for European citizens:

- High quality and consistent implementation of existing internal market provisions, including the Services Directive, continues to be a priority.

- There should be further moves towards building a comprehensive framework which enables consumers and businesses to operate confidently across borders, for example in terms of consumer protection and intellectual property rights.

- The services sector needs to be looked at differently in Europe. We need to differentiate more clearly between sub-sectors to clarify how regulation and other policy instruments can foster more competition within the internal market in all services sub-sectors.

- The internal market for financial services and the free movement of capital need to be prioritised with a particular focus on facilitating broader choice and more security for individual consumers.

- The freedom of movement of persons has to be accompanied by the right framework to enable individuals to make the choice to live and work abroad. In particular, a consistent, pan-EU approach is needed to deal with social provisions for mobile EU citizens.

- The EU must begin to focus on the next internal market and the fifth freedom – knowledge. As a starting point, there needs to be a review of existing provisions in light of knowledge-society requirements and the continued development of ICT as a business tool. This might lead to the creation of new initiatives to facilitate an internal market for knowledge.

- It is also necessary to review the external dimension of the internal market, especially in light of the global knowledge society. Openness to trade, investment and the flow of talent should go beyond internal EU borders.

■ The EU and members states need to focus public spending on fostering competitiveness within a knowledge-driven internal market. In particular, the focus should be on education and skills as well as innovation and knowledge-society infrastructure.

■ Similarly, there should be a review of the allocations from the EU budget in light of the expected emergence of the knowledge society.

■ Citizens, businesses, civil society, regions, member states and EU level actors and institutions all need to be engaged in the debate on how the internal market can be made fit for the future to build a constituency which can drive forward the required change.

A new impetus is needed to substantively move the current internal market forward, across all four freedoms. And the review of EU policies in the context of the knowledge economy should be started as soon as possible, to ensure that the next Commission can start implementing concrete policy proposals to achieve the establishment of the fifth freedom.

If these recommendations were implemented at the EU level, the door would be opened to a new era of European economic integration and of the wider European project. An internal market which is fit for the future would be a powerful tool to promote European competitiveness and to ensure that Europe's economy continues to generate growth and jobs for European citizens.

An internal market which is increasingly out of step with economic developments is in no one's interest. Europe's challenge is to recognise that even its most successful economic policy needs to be adapted if it is to deliver benefits to European citizens in future.

10 YEARS OF EMU – WHAT CONCLUSIONS FOR THE FUTURE OF EMU GOVERNANCE? EUROPEAN MONETARY UNION AND THE THREE UPCOMING EU PRESIDENCIES

Dr. Daniela Schwarzer, Senior Associate, SWP

The future of European Monetary Union is unlikely to have a prominent position under any of the three upcoming EU Presidencies. The Czech Republic and Sweden are not EMU members: the Czech Republic does not yet fulfill the convergence criteria while Sweden has chosen a de facto opt-out by not fulfilling some convergence criteria for political reasons. Any EU Presidency faces the problem of asymmetry between EU and EMU membership and the fact that the Eurogroup has its own president. An EU Presidency (EMU member or not) must take initiatives on EMU in close cooperation with the Eurogroup Presidency.

France, in contrast to the Czech Republic or Sweden, would at first sight seem more likely to include EMU governance issues in its Presidency programme. Several announcements have been made in this vein. In early 2008, Prime Minister François Fillon announced the French intention to hold a “Eurozone summit” before or during the French EU Presidency. Nicolas Sarkozy, while presidential candidate, had repeatedly called for an EMU summit. When government members talked of the priorities of the French Presidency, policies to enhance growth and employment in the EU were repeatedly added to the four priority policy areas. However, it is probably because of the open Franco-German dispute over EMU and the lack of political support among EMU members – along with the other priorities France has set for its Presidency – that Paris has so far taken no further initiatives.

POSITIONS OF THE MEMBER STATES

EMU countries today are divided over the issue of whether changes to the governance mechanisms should be made. Since its existence, EMU has undergone one formal change of rules: the reform of the Stability and Growth Pact of June 2005. The widely-criticised coalition that at the time pushed for a change of rules no longer holds today. Strong divisions between Germany and France have made further reform efforts in the immediate future unlikely, as there appears to be no other forceful coalition of reformers. The following table lists the most prominently formulated positions regarding EMU governance in the last few years:

Issue	Countries	Evaluation
Reform of the Stability and Growth Pact	The softening was proposed by Germany and France (and supported by Portugal) which were violating the Pact, and acked by Italy and Spain, which were in danger of violation. Dutch call for stricter Pact.	The reform of the two legislative acts on which the Pact is based led to a wider scope of interpretation in order to take into account cyclical developments in member countries, and strengthened the Pact's "preventive arm". In early 2008, the Dutch Finance Minister suggested further strengthening its preventive power (on the same occasion as the Eurogroup's criticism of France for postponing from 2010 to 2012 the objective to consolidate budgets).
Reinforcement of the Eurogroup	Decided by informal meeting of finance ministers in September 2004.	Introduction of the two-year Presidency. Streamlining of internal working methods. Stronger focus on fiscal policy debates. Objective to discuss the political dimension of EMU (which so far has not led to any further results).
Exchange rate policy/ External representation	Initially a major concern by countries with low price competitiveness (France, Italy etc.), the issue of the strong euro is now raised by the Eurogroup President representing all EMU members. The issue of political initiatives on exchange rate policies is of concern to the ECB, which fears interference with its independence.	The first troika trip (Presidents of ECB, Eurogroup, Commissioner) to China in autumn 2008 was a long-prepared first step to a more coherent external presentation of EMU.
"Gouvernement économique"	Repeatedly suggested by France (during Maastricht negotiations, by the Parti Socialiste in the 1997 electoral campaign, by Nicolas Sarkozy and Ségolène Royal in electoral campaign 2007).	The existence of the Eurogroup and the mentioning of the Eurogroup in the Protocol of the Lisbon Treaty is in part a result of France's pressure for a "political counterweight" to the ECB. To date, France has not spelled out what it precisely understands by "gouvernement économique".
"United States of Europe"	Building a more strongly integrated political union around EMU countries was suggested by then-Prime Minister of Belgium Guy Verhofstadt in 2005.	No further country backed this initiative despite the frequent mentioning of EMU as a possible "core" of Europe.

POLITICAL ASSESSMENT: RECURRENT TENSIONS OVER EMU GOVERNANCE

Disputes over EMU governance, especially between France and Germany, should not be brushed away as mere populism. They reveal long-term divergent understandings of the “right” institutional set-up of EMU and the “right” economic policy. Underlying these diverging institutional and policy preferences are specific national economic interests resulting from country-specific developments as well as divergent normative assumptions about “good economic governance”.

Views of economic policy are still merely national ones in most countries. Yet national policy decisions may be suboptimal for EMU as a whole and give rise to criticism among the partners. An example for this is Germany in the years 2003/2004, when wage constraint along with a productivity increase led to a strong decrease in relative unit labour costs; and in the year 2007, when a VAT-increase allowed the reduction of social charges (“TVA sociale”). Both measures strengthened Germany’s competitive position, but put pressure on the fellow EMU members. The result, from an EMU-wide perspective, is a zero-sum game, in which the partner countries lose employment while Germany stands to gain at their expense (a classic “beggar-thy-neighbour policy”). In the end, this might lead to permanently weak growth in some regions of EMU, which in turn can fuel resentment against European integration. Though traditionally not an EU – nor EMU – sceptical country, Italy in 2005 was the first to experience a debate at the highest political level on the possibility of leaving EMU. In the years 2009/2010, faced with the painful consequences of the real-estate sector crash on private consumption and on the stability of the banking sector, Spain may face similar discussions about the reintroduction of the peseta – as calls for lower interest rates or a devaluation of the currency cannot be met in EMU.

The evolution of the political leadership and external representation of the Eurozone provides a mixed picture. The Eurogroup now has a president with a two-year renewable term. The internal functioning of the Eurogroup seems to have benefited from this continuity. However, no political leadership on EMU governance issues has emerged. An encouraging signal was the first trip of a Eurozone troika to China in 2007 to discuss exchange rate issues. This can be seen as a first attempt to improve the external representation of the Eurozone. However, the meeting of the G3 (Germany, France, UK) with Commission President Barroso to discuss regulatory and banking supervision issues in January 2008 was a move that disregards the Eurogroup as a relevant actor. This was an intergovernmental trilateral initiative which may lead to joint action in the G7 or the EU; it disregards the fact that increased cooperation on supervision and financial market regulations is also an EMU issue.

ECONOMIC ASSESSMENT: SATISFACTORY RESULTS ON AVERAGE, BUT DIVERGENCE BEHIND THE SCENE

EMU's growth, employment and inflation performance was generally satisfactory, though there was a slump in 2001-2003 – caused in part by problems in the larger EU economies (for instance Germany, with low growth and low inflation; and Italy, with low growth and high inflation). In 2008, there is increasing inflationary pressure.

Meanwhile, cyclical divergences in the Eurozone have increased and the duration of business cycles tends to be longer than it used to be in the member countries before entering EMU. This has negative long-term effects on the labour markets (it may turn cyclical unemployment into structural unemployment) and on corporate investment decisions (with a risk of negative impact on innovative capacity and hence productivity). Furthermore, it raises issues for EMU governance: while some see this as a case for reinforcing the Lisbon Agenda to improve the cross-border functioning of markets, others call for a review of the fiscal rules and mechanisms.

Fiscal policy performance in some countries has indeed been procyclical and has reinforced cyclical divergence. The automatically stabilizing role of fiscal policies remains relatively unimportant in the context of EMU. The Stability and Growth Pact has been reformed after initial experience, in order to strengthen its preventive arm and to give it more scope to take into account cyclical developments when sanctions are a possibility. The commitment to consolidated budgets by 2010 in EMU countries shows that there is political will to further improve the sustainability of public finances, but at the same time the limits of this soft method of coordination are obvious (witness the French decision to delay the deadline to 2012). The open dispute over this issue reveals problems of enforceability, but also of adaptability and legitimacy of the targets.

POLICY RECOMMENDATIONS

The governance of EMU is a key issue to tackle and should not be postponed further. A first set of questions which need tackling concerns the *format in which a possible revision of EMU governance structures and its external representation* should be debated:

- As decided in September 2004, the Eurogroup should take a lead in discussing the political situation of EMU governance and the need for political answers to structural problems that have become obvious ten years after its creation. This reflection should be closely linked with the work by the European Commission reviewing the functioning of EMU.

- At some point in time, this debate should be handed to a Eurozone summit – a meeting by the Heads of State and Government of EMU countries. A first occasion for

such a step could be the necessary debate on the future of the external representation of the Eurozone, following a report by the European Commission to be issued in 2008.

■ The EMU summit could become an annual half-day meeting, linked to the European Spring Council, which debates matters related to economic development and competitiveness. It would concentrate on issues with direct relevance for EMU countries, given the fact that they share a single currency and have highly integrated and interdependent economies. This summit should take place before the EU-27 summit. Confidentiality and constructiveness should be enabled by employing the restricted format of Eurogroup meetings (limiting the number of national participants to two, i.e. Head of State or Government, and finance minister).

These suggestions may give rise to conflicts with non-EMU members (especially the potential long-term opt-outs the UK, Sweden and possibly Denmark) which seek to prevent any further institutionalization of EMU. While close cooperation on EU-wide economic-policy issues should of course be maintained among EMU and non – or future – EMU countries, it is legitimate for EMU countries to debate among themselves the future of governance structures for EMU. The EMU candidates should be closely associated; the opt-outs should be regularly informed. The situation today is different from the one when the Maastricht Treaty was drafted: then, the asymmetry of EMU and the EU was seen as a transitory situation which did not require own governance structures for EMU. It was then assumed that it would only be a question of time before all EU countries would comply with the convergence criteria and would thus become EMU members. Since the UK, Denmark and Sweden voluntarily opted out, a fracture became established between EMU and non-EMU countries which is likely to remain. EMU hence requires specific governance structures, a fact that is already reflected in the existence of the Eurogroup.

Regarding the *contents of the reform debate*, the following points seem advisable:

■ Any attempt to modify the ECB's independence is doomed to failure given the strong stance some countries take on this *acquis* enshrined in the EU Treaty.

■ When launching the reform debate, the success of EMU in terms of delivering stability to EMU countries should be clearly underlined, as any EMU-reform debate risks being misinterpreted as questioning EMU itself. EMU has brought an overall high degree of monetary stability, not known in Europe in the decades before. It has stabilized the single market by abolishing the distortions previously caused by exchange-rate fluctuations, while reducing the member countries' vulnerability to international financial crises.

■ At the same time, the success of the euro's first decade cannot be used as evidence for future long-term success. Firstly, a disintegration of EMU is a possible risk scenario – although today it is neither discussed politically nor provided for juridically in the EU treaties. Ten years of EMU have delivered ample empirical evidence of the kind

of dangers inherent in EMU's set-up which, in a worst case scenario, might lead to economic and political tensions – e.g., due to (cyclical) economic divergence among regions or member countries. Such developments could make leaving EMU an alternative for some member countries, especially if markets start speculating against a country which faces high costs from EMU membership. More likely than this is the possibility that without an improvement to its governance mechanism EMU will underperform economically. Even if no political crisis emerges, a decline in general prosperity may occur. This is likely to affect countries to different degrees and may hamper the EU's cohesion and nurture anti-EU and populist tendencies.

■ The elements that should undergo reform without affecting the ECB are: introduction of a Eurozone summit; strengthening of the external representation of the Eurozone; discussions with international partners on bilateral or global cooperation on exchange rates; and the review of the fiscal-policy rules (in particular to avoid pro-cyclicality in boom times and to ensure long-term sustainability). Furthermore, the upcoming debate on the reform of the EU budget should pay attention to its possible macroeconomic importance for EMU: automatic stabilization through the EU budget should be introduced by an EU corporate tax and by making expenditure more dependent on the economic situation in the recipient country.¹

1. For the full argument see Sebastian Dullien/Daniela Schwarzer: "Bringing a macro-economic dimension into the EU budget debate", EU-Consent Budget Working Paper, June 2007, <http://www.eu-consent.net/content.asp?ContentId=1455>.

GIVING EUROPE AN ECONOMIC GOVERNANCE – FROM INEFFICIENT INSTITUTIONAL CONSTRAINTS TO A RENEWED POLITICAL RESPONSABILITY

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EMU: A SUCCESS BUT SOME EXPECTATIONS STILL NOT REALISED

Almost ten years after the successful launch of EMU, many expectations of it have not been met. Goods and labour markets lack flexibility, particularly with regard price and wage adjustment. The freedom to provide services and to set up business face various administrative and domestic legal barriers. In the field of fiscal federalism, the establishment of EMU has not led to a strengthening of the functions of appropriation and redistribution of the EU budget. The choice made at Maastricht was, on the contrary, to preserve the competencies of member states in the conduct of economic policy (budgetary, fiscal, social and industrial); the Union is entrusted with helping to coordinate national economic policies, and with developing Community policies (competition, regional policy, research and development). However, processes of coordination adopted at the EU level, such as the Stability and Growth Pact (SGP) and the Lisbon Strategy quickly demonstrated their inability to compel member states to respect their commitments. Peer pressure did not encourage structural reforms in member states, but rather the conclusion of “*pactes de non-agression budgétaires*”, particularly between the big member states.¹

On the external side, the Council of Ministers for Economy and Finances (Ecofin Council) – responsible for defining the exchange rate policy of the Community – has not yet been able to agree to 1) the need for an exchange rate strategy and 2) the attitude to adopt vis-à-vis the currencies clearly undervalued, despite the application of qualified majority voting in this area. In spite of the high exchange rate of the euro against the dollar, the Council has retained the EU's policy of “benign neglect by default”. The same applies to the Union's representation in international financial forums, as was pointed out by the Laurent Cohen-Tanugi Report. One could mention that the proposal presented by the Commission in November 1998 to strengthen and give coherence to the European positions is still pending before the Council! Lorenzo Bini Smaghi, a member of the ECB Executive Board in charge of external relations, was right when observing that “[Europe] has much less influence over international policy issues than would be expected on the basis of its

1. Jaillet P., Pfister C., “Quelques questions sur la conduite d'une politique monétaire unique dans une zone économique et financière en voie d'intégration”, *Revue d'économie financière*, 1-2002, n°65, p.15.

relative economic weight. This is particularly the case in international institutions like the IMF where, as compared to the WTO, Europe is much less influential than the USA.”²

Finally, fifteen of the twenty-seven member states, including the United Kingdom, the most important financial market in the Union, have not yet adopted the euro.

The rationale behind this lack of spill-over effects in EMU are well known: the still-strong heterogeneity of member states’ economic preferences and the asymmetrical building of EMU. The highly integrated monetary pillar faces 28 independent authorities responsible for economic and budgetary policies (27 member states and the EU itself). In these circumstances, EU economic governance is purely theoretical.

The Heads of State or Government are aware of this issue. The European Council meeting in Laeken in December 2001 asked the Convention on the Future of Europe to propose an improvement of the coordination of economic policies. “Economic governance” was the theme of one of the eleven working groups established within the European Convention. But it quickly became clear that the very deeply rooted divisions between members of the group would prevent any significant developments. Indeed, the Treaty of Lisbon, in line with the Treaty establishing a European Constitution, enshrines existing solutions and makes only slight improvements. The high sensitivity of EMU issues prevents to move from a compromise to an other: costs of a new bargaining seem to be higher than the potential benefits of a new agreement.

History is repeating itself in EMU. The previous three intergovernmental conferences (1996, 2000, 2004) all failed to adopt a new distribution of powers between the member states and the EU that deviates from the equilibrium agreed in 1990-1991. This means that any improvement of the economic governance can only be achieved by using room for manoeuvre left by existing treaties. Any solution based on deep constitutional changes in EMU is bound to fail.

MARGINS FOR MANOEUVRE CONSTITUTIONALLY RESTRICTED

The margins of manoeuvre for improvements to existing European economic governance are limited in several respects.

Firstly, member states retain the sole right to conduct structural (and budgetary) reforms on their territory. This does not mean that total freedom is left to national authorities in the conduct of economic policy. On the one hand, they must contribute to achieving the objectives of the Union, namely “*promoting economic and social progress and a high level*

2. Bini-smaghi L., « Powerless Europe : why is the Euro Area Still a Political Dwarf ? », *International Finance*, 2006, vol.9, n°2, p.229-248.

of employment". On the other, the Community treaties compel member states to pursue the convergence of their economic performance, even once they have adopted the euro (see Articles 98, 99 and 104 of EC Treaty, complemented by the Stability and Growth Pact, SGP). However, this constraint is a relative one: the penalty for those states adopting non-cooperative behavior is still difficult (perhaps impossible) to implement.

The Lisbon Strategy has attempted to replace the negative obligations of the SGP ("Member States shall avoid excessive government deficits") by positive obligations: *to become the most competitive and dynamic knowledge-based economy in the world*. This method was no more successful: coordination favors discussion, not the adoption of decision. As Jean Monnet observed, "[coordination] is an expression of national power as it is; it cannot change it, it will never create unity"³

Secondly, the ECB is constitutionally obliged to maintain price stability, a goal for which independent status has been conferred on it. One could consider that independence is not an absolute dogma but a principle at the service of the price-stability objective.⁴ It does not mean that the Eurogroup, the Ecofin Council and the European Parliament are not allowed by the EC law to discuss the development of monetary policy or that the ECB should not comment on the structural reforms undertaken by the member states. It does not prohibit dialogue between the ECB and the other EU institutions (see Article 113 of EC Treaty), national authorities and civil society. A monetary dialogue has been in place between the ECB and the European Parliament since 1999. Moreover, central bank governors are regularly heard by the competent committees of their national parliaments. The only condition for this dialogue is that neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Community institutions or bodies, from any government of a member state or from any other body. None of the latter should seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the conduct of their tasks (Article 108 of EC Treaty).

These two imperatives, constituting the primacy of national sovereignty in the exercise of economic policy and the independence of the ECB, lead us to reject any solution which recommends:

■ The establishment of an "economic government", seen as the body with the ability to identify the political, economic and social goals of a state and to lead the state towards achieving its goals.⁵ The proposal made by François Fillon in mid-January 2008

3. Monnet J., *Mémoires*. Paris, Fayard, 1976, p.35.

4. See ECJ, case law C-11/00, *Commission v. ECB*, 11 July 2004.

5. Jürgen Stark, member of the Executive Board of the ECB, indicated with some irony, that :

"This would potentially involve the transfer to a European institutional of national sovereignty regarding economic policy issues and would require a willingness to subordinate perceived national economic interests to the economic interests of the euro area as a whole. But would those politicians who so eloquently call for an economic government be willing to accept real decisions by such an institution than ran counter to the perceived national interests of their country in order to

to establish a Euro Area Summit should neither be labelled nor conceived as an “economic government”. Such an attempt would be bound to fail.

■ Placing the monetary policy implemented by the ECB under the supervision of an external authority, for example through the definition of a range of inflation figures by the European Parliament and/or the Council.

TOWARDS THE POLITICAL RESPONSIBILITY OF THE ACTORS INVOLVED IN ECONOMIC GOVERNANCE

Should Europe be satisfied with the existing situation? Since it has not succeeded in improving its economic governance, should Europe expect to be forced to change under the pressure of outside forces? The under-valuation of the dollar and the renminbi against the euro has produced interesting effects: at the end of November 2007, Jean-Claude Juncker, Jean-Claude Trichet and Joaquín Almunia, the three representatives of the economic and monetary authorities in Europe, for the first time made a joint trip to discuss with the Chinese authorities the euro-renminbi exchange rate. More recently, the rate of 1.53 USD per 1 euro has led members of the Eurogroup to express their common concern, also relayed by the President of the ECB.⁶ It is not certain whether this useful convergence of views will lead the Council to formulate “general orientations for an exchange-rate policy” in relation to the US dollar or the renminbi. The European Council in Luxembourg in December 1997 laid down the conditions under which such guidelines would be adopted: “in exceptional circumstances”. This expression was interpreted as meaning a “clear misalignment of the exchange rate” or a “particularly high volatility of the exchange rate”. It remains to the European Council to define what it means by “clear misalignment”...⁷

While this approach has the merit of being pragmatic, it remains at odds with the many declarations adopted at the highest level inviting Europe to take control over its own destiny. In contrast, the creation of an informal body at the level of Heads of State or Government similar to that of the Eurogroup by the Lisbon Treaty would enable the highest representatives of the member states sharing the euro (hereinafter “participating countries”) to discuss issues such as exchange rate policy, the external representation of EMU or Broad Economic Policy Guidelines (BEPGs) specific to the euro area. It is indeed surprising that countries such as the United Kingdom and Denmark have a voice to approve the conclusions of the European Council when they touch upon matters relating only to the member states participating in the euro area. The institutional recognition of the European Council by the Treaty of Lisbon prohibits the establishment of a *sui*

ensure the smooth functioning in EMU ? » (« Does the euro area need an economic government ? », Allocation at the HEC European Executive Campus, organised in Brussels, le 22 January 2008)

6. “L’Eurogroupe dénonce avec force la flambée de l’euro”, *Le Monde*, 4 March 2008.

7. On 11 March 2008, Jean-Claude Trichet repeated its worries about the excessive volatility of euro/dollar exchange-rate.

generis European Council by excluding the Heads of State or Government of countries which have not yet adopted the single currency. Therefore, representatives of participating member states could only meet informally in the margin of the European Council. The presidency of this body would be ensured by the president of the Union... provided that the president has the nationality of a participating country.⁸

However, this improvement introduced only slight changes, as it is dependent upon the distribution of power between the EU and the member states. It does not affect by itself the very nature of the coordination process.

In this spirit, it is important to complete the institutional incentives relating to economic policy coordination within the euro area (recognition of the Eurogroup and the possibility for participating member states to define their own BEPGs), by material incentives. In the same way that section 104, parag. 11, of EC Treaty defines financial sanctions against member states in excessive deficit, it should be possible to “reward” states which implement structural reforms agreed upon in the BEPGs and the integrated guidelines (adopted in the framework of the Lisbon Strategy). This award could be expressed:

- Either through the allocation of loans at reduced rates of interest by the EIB.

- Or through modulation of the levels of Community participation in the context of programmes and projects of the Structural Funds, as Protocol No. 28 on Economic and Social Cohesion envisaged in respect of “less prosperous member states.”

The Open Method of Coordination (OMC) laid down by the Lisbon Strategy is based on the principle that there are positive externalities to any coordinated action, but has limited scope in practice: the positive externalities vary across sectors concerned by the Strategy.⁹

This lack of positive externalities on the economic side could be balanced by acting on the political side: to make the European “*citizen-taxpayer-consumer-employee*” aware of the personal benefits to expect from the implementation of the reforms called for in the Lisbon Strategy.

This would involve:

- The close association of civil society in the definition and implementation of the Lisbon Strategy. Before member states adopt their National Reform Programme a parliamentary debate should be systematically organized at the national level.

8. A such criteria has been mentioned by the French State Secretary for European Affairs, Jean-Pierre Jouyet. See “Pour Jouyet, le président de l'UE devra être de la zone euro”, AFP, 12 February 2008.

9. Pisani-Ferry, J., “What’s wrong with Lisbon ?”, Speech, Munich Economic Summit, June 2005.

■ Every three years, before the modalities of implementation of the Lisbon Strategy (the integrated guidelines) are adopted by the European Council, all the institutional actors (Commission, ECB, representatives of the member states and European and national parliaments, the European Economic and Social Committee, the Committee of the Regions etc.) and socio-economic partners (social partners, representatives of civil society) should discuss the strategic orientations of the Strategy within a *Social and Economic European Convention* (Convention sociale et économique européenne). The Spring European Council – which adopts the integrated guidelines – should commit itself to “take full account” of the conclusions adopted by that Convention.

■ A clear and precise identification of the aims of the Lisbon strategy, coupled with efforts to attract the attention of citizens, the economic actors and social partners. In this context, the “name and shame” approach suggested by Wim Kok would raise public awareness. However, the stigma of member states lagging behind only makes sense if it leads to an identification of the causes of delays, and an identification of areas in which states must in future concentrate their efforts. The methodology used by the OECD *Going for Growth* may be usefully transposed to the Lisbon Strategy.

EU SOCIAL REALITY OR NECESSITY?

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For many years inclusion of social issues into European integration has been put off. Apart from free movement of workers and issues of gender equality, social issues have been practically absent both from the Treaty Rome and the practical activities of the European Communities. A breakthrough in this respect took place during the discussion on the Single European Act, when Jacques Delors, as president of the European Commission, proposed to introduce elements of social policy into the European project. The aim was to ensure a protecting shield over ambitious reforms that were supposed to complete the single market but also might lead to social discontent. Over a dozen directives in the area of labour law and work health and safety were successfully adopted. However, as a result of the unwillingness of the United Kingdom to sign the European Charter of Fundamental Social Rights of Workers in the early 1990s, it was impossible to adopt a single document defining fundamental social rights of Community citizens. This goal was finally achieved in the Amsterdam Treaty, when provisions concerning social policy standards were introduced directly into the tenor of the treaty. Currently those standards are defined mainly in headings III and IV of the European Charter of Fundamental Rights.

This brief reminder serves to show that the social dimension of European integration has been a subject of controversy for many years, and one can assume that this will remain the case. In order to make a necessary recapitulation and to attempt a look into the future, it is necessary to make a detailed analysis of experiences in three areas:

Firstly, we must recapitulate the discussion about European social models and consider whether it is possible to create a single trans-European social model in a foreseeable future.

Secondly, we must look at challenges related to demographic changes, in particular including the ageing of societies.

Thirdly, we should consider the efforts which have aimed to unlock liberal economic reforms through the introduction of social policy instruments.

PATHWAYS FOR EUROPEAN SOCIAL MODELS?

Since the mid-1990s there has been an ongoing debate within the European Union on how to build an optimal model of relations between economic and social policy so as to

minimize social problems.¹ The Treaty of Lisbon does not directly define the European social model, which might constitute the basis for systemic social-policy solutions to be implemented by individual member states.² However, the term “European social model” appears in the Berlin Declaration, which stipulates that the model “*combines economic success and social responsibility*.”

A large majority of social policy experts and researchers agree that in the European Union a few social models exist, all of which share common foundations (social dialogue, solidarity among individual social groups and the conviction that economic development should serve the purpose of realising social goals) – which in turn differentiates them from models applied in other regions of the world, particularly the United States, Japan and countries of South America.³ Fundamental values shared by societies and governments of all member states do not necessarily make a single social model. This was emphatically demonstrated during a recent discussion about an amendment to the working time directive, when a compromise on the fundamental issue of the working time level failed to be agreed. The absence of a compromise left standards at the existing level, notwithstanding small modifications by the European Court of Justice. Meanwhile, the tone of the discussion and the arguments used during negotiations make it difficult to claim that differences have been eliminated since the early 1990s.

The European Commission has taken account of these differences in its approach to the implementation of social policy within the European Union. Its June 2007 Communication entitled *The implementation of the common principles of flexicurity* stipulated, inter alia, that the situation in individual states of the European Union is considerably diverse.⁴ It was also noted that all member states face the same challenges related to modernisation and adjustment to globalisation-related changes. This signifies, on the one hand, the possibility of developing “common principles for implementation of the flexicurity model”, but on the other a real opportunity to exchange good practice and to learn from one another. In no circumstances is this about building a single-solution model which would work under any circumstances, but rather it is about a process of taking advantage of the experiences of others who cope better with challenges to labour markets or in the field of social inclusion. In its Communication, the European Commission proposed four paths for implementation of the flexicurity model, which might be put into effect in groups of states characterised by similar models of social policy implementation, with similar experience in the area of modernizing social security systems and facing similar challenges.

1. A. Sapir *Globalisation and the reform of European social model*. Bruegel, Background document for presentation at ECOFIN informal meeting, Brussels 2005, F. W. Sharp *The European Social Model: Coping with the Challenges of Diversity*, Cologne 2002.

2. The only general definition, which can be inferred from the 2002 Barcelona European Council, is as follows “The European social model is based on efficient economy, high level of social protection, education and social dialogue”

3. G. Esping Andersen *Three worlds of welfare capitalism*, Cambridge 1990, M. Ferrera, M. *Modernising the European Social Model: sharpening priorities, stepping up reforms*, Progressive governance network 2003.

4. European Commission *Towards Common Principles of Flexicurity: More and better jobs through flexibility and security*, Brussels 2007.

This approach was dictated by the observation that all member states have the same goals to attain but those goals must be accomplished with the use of different economic and social-policy measures.

Such an approach seems to be as rational and worthy of support as is possible. It does not make sense today to discuss the building of a single European social model; we should rather focus on the search for solutions that will be optimal within the context of states presenting similar social models. At the same time, one should make sure that the challenges and goals are shared, in order to avoid divisions within the EU and the potential creation of a divide between a hard core and excluded states.

DEMOGRAPHIC CHALLENGES – THE TIME BOMB IS TICKING!

The ageing of societies seems inevitable. The Green Paper on Demographic Change indicates beyond doubt that by 2030 EU countries will be short of 20.8 million individuals of working-age population.⁵ In 2005, life expectancy in the European Union stood at more than 81 years for women and nearly 75 years for men. According to current forecasts, the respective figures in 2050 will be 87 and 82.⁶ The ageing of the population, however, should not be seen in negative terms, but rather as a challenge which must be addressed at both national and Community levels. We should be aware of the existence today of instruments or activities that, when properly adjusted to the conditions prevailing in individual countries, could be a useful source of ideas. For instance, if all member states reached the level of employment of 75 per cent in the 15-64 age group (the current figure for Denmark), this would generate 32 million new employees in the EU, which might solve labour shortages in individual markets for many years to come.⁷

At the same time, a problem with a clearly negative impact is the low-birth-rate related “dying out” of societies in the member states, which erodes Europe’s potential. If no adequate response is found to the challenge of ageing populations accompanied by the intensifying process of «dying out,» the economic competitiveness of the EU and its growth rate will both decline, as member states will be spending more and more on their social provision systems. In Germany, for example, pension expenditure will grow from 10.3% of GDP in 2004 to 15.4% in 2040. Over the same period, health care spending will grow from 3.8% of GDP to 8.4%.⁸

5. EC Communication – Green Paper *Confronting Demographic Change: A New Solidarity Between the Generations* Brussels, 16 March 2005.

6. *Demography Monitor 2005*, Social Situation Observatory, The Hague 2005, p. 10.

7. J. Ciechański, *Bomba geriatryczna Europy: Czy polityce rodzinnej uda się ją rozbroić?*, (*European geriatric bomb. Can pro-family policy defuse it?*) photocopied text 2006, p. 1.

8. Ibidem, p. 7

The European Union has not so far become directly involved in the search for responses to challenges related to the ageing of societies, and limits its role to indicating solutions to be applied at the national level. However, it now seems that the European Commission should be more active on this issue. A light at the end of the tunnel is the commencement of a discussion about migration policy and the presentation in October 2007 of two first-draft directives aimed at attracting qualified workers to the EU. However, one must be aware of the fact that this type of solution can be of limited help in solving the demographic problems of member states. Demographic issues are pan-European challenges, for which one can imagine a significant added value for actions implemented at the Community level.⁹ It would therefore be useful for this issue to be reflected in proposals concerning the financial perspective for the years 2014-2020. The fundamental question is of where the spending related to demographic changes can be placed in the budget. It seems that a good solution would be to situate these issues within cohesion policy. An argument supporting such an approach is the fact that demography affects social cohesion. In the long term, investments in demographic issues create significant added value in the spheres of the economy (ensuring a sufficient number of adequately qualified workers), development (the possibility of ensuring proper resources in the scope of human capital and sustainable demographic development) and social policy (maintenance of the traditional social structure – the demographic pyramid – and ensuring proper living conditions for individual generations). Moreover, demographic changes are in many cases regional in character; as internal migrations intensify, this fact will cause a reduction of the development potential of those regions that have disadvantageous social structures. At the same time, spending on meeting demographic challenges is of a pro-development character, which – given free movement of persons including workers – concerns the entire European Union and not only the primary beneficiaries, the states. One should also not forget about the increasing good functioning of social security systems, which enable transfers of pension benefits. Moreover, improvements in the demographic situation of one state translates directly into a growth in the importance of the entire EU.

However, probably the most important argument in support of the expansion of cohesion policy priorities to demographic challenges is the possibility easily to design instruments that engage effectively with adverse demographic processes. It seems that those instruments can be divided into two complementary groups: pro-family policy instruments and labour-market instruments.

REFORM SHOCK-ABSORBERS

For some time the European Union has been looking for solutions that will equip its citizens for the challenges of globalisation. Unfortunately, a common perception is that the

9. European Commission *Communication on the demographic future of Europe – from challenge to opportunity*, Brussels 2006.

European Union concentrates only on investments in research and development. These are certainly necessary but such action is targeted only at winners of globalisation. In the perception of societies the action is not an appropriate answer for workers in other parts of the labour market. At the same time, we must remember that employees of this second section of the labour market represent a majority capable of blocking reforms for fear of losing their jobs. The discussion on the services directive is the best example of that. Without addressing the needs of people from the second segment of the labour market it will be impossible successfully to complete the reforms, which are necessary if we want to address the challenges of globalisation. Yet these necessary reforms have a high social cost.

Unfortunately, in the debate at Community level the issue of people losing out due to European integration was virtually non-existent until the most recent negotiations. The European Globalisation Adjustment Fund, which in a sense is intended to be the EU's response to the needs of "losers" – or rather those losing out – has appeared in the present financial perspective.¹⁰ It is certainly not an effective instrument and it requires many changes, but it is a step in the right direction. In this respect we most definitely need more and not less involvement at the Community level.

The European Union should be more active in looking for solutions targeted at potential losers, so as to prevent social exclusion which might take place when a given reform is put into effect. If citizens are convinced that they will not be left on their own with their problems, they will be much more willing to consent to reforms such as those in the labour market. A financial cost is inevitable. One of the financing sources should be the Community budget.

CONCLUSION AND RECOMMENDATIONS

A stocktaking of actions undertaken at the Community level brings ambiguous results. On the one hand, many EU-level solutions have influenced the realities in the member states, and social policy is certainly a significant part of the European project. On the other hand, it is difficult to reach a consensus concerning further solutions: they should aim to increase flexibility and to create instruments that would help us meet the challenges of globalisation and demographic change. This does not mean that we have to renounce the principles underlying European social models. The future most likely belongs to a rational, pragmatic approach which recognises that member states differ in their applied social policy solutions, but affirms that well thought out actions at the Community level can bring significant added value and benefits to member states.

10. Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation adjustment Fund.

Subsequent Presidencies should focus on encouraging a discussion about development paths for individual social models. This should result in proposals of specific solutions for member states, which will be identified by their different social models. At the conclusion of the Swedish Presidency it would be optimal to reformulate the recommendation system in preparation for another edition of the Lisbon Strategy National Reform Programmes, so that instead of putting forward recommendations for all 27 states the system breaks down recommendations into groups adjusted to the specifics of individual member states.

Presidencies should initiate a debate about ways of involving the Community level in the implementation of actions aimed at coping with demographic challenges. This should prepare the ground for a discussion in the context of negotiations for a future financial perspective, and particularly for inclusion of those issues into a reformed cohesion policy. Moreover, in the migration context it would be useful to hold a debate about two perspectives: the demographic one (actions to reduce the adverse effect of an ageing society and population decline) and the labour market (a possible replenishment of shortages or closing of the labour market out of fear of a rise in unemployment). This should result in a consensus regarding the direction to be assumed by "European migration policy".

After concluding the discussion about the review of the single market it will be necessary for three subsequent Presidencies to deal with the question of how to unblock the reforms that must be carried out at the Community level. In the same way as demographic issues it will be necessary to hold a discussion on how to perform actions targeted at potential "losers" of reforms, in the context of the Community budget. Particular attention should be devoted to a review of the effects to date of the European Globalisation Adjustment Fund.

THE NEED FOR AN AMBITIOUS SOCIAL AGENDA

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To build on the 2005 debate over the European social model, in spring 2007 the European Commission launched a public consultation on changes in European societies, based on a background document¹ prepared by the BEPA. In its communication in November 2007, “Opportunities, access and solidarity: towards a new social vision for the 21st century Europe”², it announced that it intended to draw on the results of the public debate to elaborate a renewed social agenda by mid-2008, and outlined several guidelines. The forthcoming presidencies of the European union should therefore bring to a conclusion the negotiations on the future social agenda covering the period 2011-2016.

In a context marked by globalisation, lasting unemployment and increasing inequalities, and in an ageing society that has undergone thorough transformation since the introduction of the welfare state models in the wake of the Second World War, further thought needs to be given to a social Europe’s current or future societal objectives. The Commission’s significant effort of stocktaking, which emphasised the new social risks that threaten European citizens, therefore represents a necessary first step to designing an action framework for the next decade.

However, the chances of success for this “re-foundation” project – that *Notre Europe* recommended in its study “For a new European social contract”³ – depend on respect for a certain number of conditions and precautions.

KEEP IN MIND THE SPECIFICITIES OF THE SOCIAL EUROPE

As the outcome of a long historic process, social Europe is both a classical legal construction and the product of collective bargaining. In fact, parallel to the social provisions laid down in the various treaties, completed by case law of the Court of Justice of the European Communities, social dialogue organised at European level has always been a source for the EU’s *acquis communautaire*.

Something of an ambiguity stems from the fact that the social policy of the European Union is not simply a (larger) carbon copy of the social policy of one or another member

1. http://ec.europa.eu/citizens_agenda/social_reality_stocktaking/docs/background_document_en.pdf.
2. COM (2007)726 Final dated 20/11/2007.
3. http://www.notre-europe.eu/uploads/tx_publication/Etud43-en_01.pdf.

state. It is founded on different principles; the scope of its activities and instruments are more limited.

Since most social laws are still adopted at national level, any Union action abides by a two-fold subsidiarity⁴: one subsidiarity is horizontal and signifies that the European legislator only intervenes after it has invited the European social partners to negotiate collective bargaining agreements, and in the event of the breakdown of the social dialogue; the other is vertical and means that European employment legislation does not standardise the social conditions but lays down the minimum standards for all of the Union, which the national governments are responsible for applying. An additional precaution is to prevent countries whose standards are stricter from using the pretext of European law to lower the level of protection that they have achieved.

Although these social developments seem to make use of wider channels than other European policies, and while subsidiarity plays a major role in them, it would be wrong to conclude that social Europe is simply a loose and optional framework. The opposite is indeed true: it is based on a solid legal foundation and, in certain areas – such as the mobility of workers, the continuity of their social rights, and the European labour market regulations – it has developed a “hard” *acquis*.

Up until now the strength of the European model has been linked to two factors: on the one hand, the complementary nature of local, national and European tiers of government, as expressed by the principle of subsidiarity; on the other, the existence of a large number of instruments, such as the directives and regulations, the structural funds, the Charter of Fundamental Rights, and – furthermore – the open method of coordination.

DO NOT NEGLECT THREE FUNDAMENTAL COMPONENTS

Firstly, it is important to appreciate that the achievements of the last 50 years are the product of the dynamic opposition of two schools of thought over the relationship between the social and economic spheres. The first school believes that social policy stems from economic policy and that excessive rigidity may jeopardise growth. In a context of relative economic stagnation, social protection may be viewed as a luxury item and defended as – at best – a factor of production. The second school of thought argues for a degree of autonomy for social policy from the economic sphere and hence focuses on the preservation of rights and minimum standards within a context of social insecurity. To upset the balance between these two visions is to risk disaffecting European citizens, and without necessarily an efficiency gain in return.

4. Quintin O., and Favarel B., *L'Europe sociale, enjeux et réalités*, la Documentation française, Paris, 1999.

Secondly, although the 2005 debate did not reach a clear conclusion regarding the existence of a “European social model”, there are lots of similarities beyond the diversity which characterises each of the 27 member states. These are related to industrial relations, social budgets, social protection systems and the organisation of services of general interest, and they have shaped a typically European way of conceptualising and promoting social protection. This way of thinking even extends to the differences apparent in the organisation of links between state and family. Rather than representing a single model, they form a base to be interpreted according to multiple variables. In addition, common behaviour and values⁵ on a continental scale enable us to mention the (somewhat ill-defined) existence of a true European model of *society*.

Thirdly, the social dimension of European integration has progressed hand in hand with the deepening of the single market, but it is also the result of a long process enriched by each enlargement. It is therefore vital to take full account of the transformation caused by the last two enlargements, bearing in mind that these 5th and 6th enlargements increased the EU population by a quarter but its GDP by only 5%. Here the Lisbon Treaty offers some opportunities.

Other major factors not to be underestimated include the wide economic disparities, the legacy of the Bismarckian in Central Europe and the different paths used for economic transition in the former communist-bloc countries – which influence the contemporary societal change in the new member states and their institutional capacity.

ENLARGE THE SCOPE FOR RENEWAL, AND INTEGRATE ALL THE NEW ACTORS

The experimental character of European intervention, the large number of actors and the identity roots of the consensus on which this construction is based all rule out an approach according to strata used in economics. It is not by thinking in terms of the “costs of non-Europe”, as was done to complete the single market, that we will convince member states to make a greater commitment in the social area. To make progress, the foundations of today’s social Europe need to be updated, and the standards that some consider a minimum in order to live together in a society of 27 countries need to be verified. Such an examination of shared conscience is the prerequisite for using the methods of “packages” employed during the enlargements of 1986 and 1995; it will allow common targets to be drawn and a multi-faceted compromise to be accepted.

The restructuring of an ambitious social agenda, likely to win agreement between the different national governments and appropriate to economic constraints and current social expectations, requires a large “menu” for a negotiation.⁶ This will comprise a critical

5. *European values in the globalised world*, Communication of the Commission, COM(2005) 525 Final dated 20/10/2005

6. See above “For a new European social contract” (part 4 – Elaborate an Agenda for a new European social contract).

examination of the financial and legal instruments used at EU level, and the involvement of the new actors – namely NGOs and the local and regional authorities.

The review of the instruments, with a view to their possible modernisation, should involve:

- European social dialogue.
- Binding legal tools (directives, regulations).
- Non-binding legal tools (recommendations, communications).
- The open method of coordination.
- The structural funds.

In particular, it means that the Lisbon strategy has to take on board, more than currently, all social issues and not to limit itself to employment issues.⁷ It also means that the utility of the open method of coordination, even if the method is improved, should not be overestimated; and that an in-depth examination should be made to discern the appropriateness of tools in given policy domains.

As regards the new actors, organisations representing civil society and local and regional authorities play an increasing role in the provision of services and relief to the most deprived sections of the population. The streamlining of the national social schemes in response to heavy pressures on public finances, and the generalised trend to decentralisation have together significantly lowered the level of intervention. The new actors have been left with the burden of insuring solidarity in its multiple forms (in 2005, expenditure for social protection, teaching and health amounted to more than 52% of the spending of the European sub-national authorities).⁸ Their responsibilities include the fight against social exclusion, integration of migrants, access to the labour market for young workers, respect for diversity and in particular for disabled people, child-care, care for elderly and dependant people, etc.

For the time being, the place given to these actors in the design of the new social agenda remains very marginal. The national level retains a prominent overall role, a fact ill-suited to current and future trends. The immense capacity of the new actors to innovate is often unacknowledged and always insufficiently argued. Taking better account of their activities, complementary to or in competition with the old actors such as the social partners

7. Cohen-Tanugi L., *Une stratégie européenne pour la mondialisation* - Rapport d'étape, 2008 (www.notre-europe.eu/uploads/tx_publication/RAPPORT.ETAPE.pdf).

8. DEXIA, *Local Finances in the European Union 2000-2006*, 2007 (www.dexia-editions.com).

and the national authorities, would reinvigorate substantially the social sphere – from a financial, legal and organisational perspective.

In the social field the European Union must not simply adopt a defensive attitude towards technological, economic and sociological challenges. This is a question of internal as well as external credibility.

We often refer to the knowledge economy and sometimes to the knowledge society. The diagnosis on changes in behaviour and values calls for a more qualitative answer, “a knowledge culture”. This is at least the level of ambition that the future EU Presidencies should have if they intend to promote a new social agenda which meets Europeans’ hopes.



PART III

JUSTICE, FREEDOM, SECURITY



PART III – JUSTICE, FREEDOM AND SECURITY

IMMIGRATION

In the EU context of an aging population, a rapidly evolving labour market and increasing migratory pressures at its frontiers, all the authors call for a common policy on irregular and skilled immigration.

As regards the treatment of *irregular immigrants*, frontier controls and sanctions imposed on employers of unlawful immigrants are not only insufficient, but also prejudicial to the right of asylum and to fundamental rights.

A new approach is needed based on:

- A European consensus, to redress the differences between national policies which undermine their credibility and create tensions between member states.

- A balance between frontier controls, common humanitarian standards, respect of civil liberties and a European framework for the regularisation of migrants (*Bruegel*, *SWP*).

- An enhanced use of new technologies in European security policy duly tested against its ethical implications (*CEPS*); in addition, no new EU large-scale IT systems of the dimensions of SIS II and VIS should be agreed upon and established before SIS II and VIS are actually operational and have proven to be proportional, safe and reliable (*CEPS*).

- Information campaigns for informal networks and local communities, rather than just bilateral agreements with countries of origin – on seasonal employment and expulsion - (*Eliamep*).

- The recognition of the links between legal and illegal migration: meeting labour market needs; supporting migrant organisations; a European points system with repatriation assistance; studies of origin-country specificities, the conditions underlying the evolution from lawful to unlawful migration, the conditions that allow a reduction of the latter by fostering the former and a comparison of the costs of frontier controls with those of irregular immigration (*Eliamep*).

At the same time, regarding *qualified workers*, the authors agree on the need for a European strategy to make Europe competitive on the global market for skills. But opinions differ on the efficacy of European policies in this area, particularly of the so-called

“European Blue Card” proposed by the European Commission in September 2007. The authors therefore propose:

- That among the eligibility criteria for access to the Blue Card, candidates should have proven skills and not just proof of adequate income, the level of which varies from state to state, in order to fully benefit from the advantage of access to the entire European labour market (*Bruegel*).

- National measures for the promotion of infrastructures for expatriates residing in the EU, such as access to English-speaking schools for their children (*Bruegel*).

- A reform of the labour market and greater investment in R&D that should attract highly qualified workers (*EPC*).

The *differences of opinion* between think tanks, and between member states, are substantially more apparent regarding two points in particular:

- The integration of migrants: some argue in favour of the elaboration of a European model that reaches beyond the limits of national models (*EPC*); others believe that member states preferences are too incompatible and the trans-national effects too limited to resolve integration-related issues at the European level (*Bruegel*).

- Circular immigration: some authors highlight the positive effects on development aid and on immigration control (*SWP*), whereas others focus on the limits of such policies (*EPC*).

The area which appears to have elicited the strongest consensus concerns methodology: all the authors agree on the necessity for a *global approach* that is coherent and integrated, and, in particular:

- The need to manage different types of immigration in a concerted way, including asylum and legal migration (*Bruegel, Eliamep, SWP*).

- The inter-dependence of all states, big or small, European and non-European (*SWP, EPC*).

- The need for horizontal coherence - between the different policies, security, employment, social questions, integration, Foreign & Security Policy, development aid - and vertical coherence - between different governance levels (*SWP, EPC*).

- The need for coordination between successive Trio Presidencies, between the individual presidencies in each trio and between the European institutions (*SWP*).

JUSTICE AND HOME AFFAIRS (JHA)

One of the areas of European policy most affected by migratory phenomena is Justice and Home Affairs, although it naturally covers a much broader field. In fact, this area is subject to very contradictory tensions.

The Lisbon Treaty makes significant advances by ending the pillar structure, generalising the ordinary legislative procedure, broadening the legal basis of Justice and Home Affairs in some areas, the mutual recognition of judicial decisions, and through the consideration of a European Public Prosecutor. But at the same time this area is still subject to restrictions such as unanimity or “emergency brake” mechanisms in certain domains, transition periods for instruments adopted before the Treaty of Lisbon and opt-out mechanisms (*EPC*).

Moreover, whereas JHA may be seen as an example of a “Europe of results” reconciling public opinion with the notion of European integration, the difficult balance sought between security and the protection of individual freedoms can also work in the opposite direction, making the EU project less popular (*CER*).

Lastly, even if it is quite unlikely that there will be any further legislative proposals before the application of the new Treaty, the European Commission is pressing for the adoption of pending decisions. This would ensure that years of difficult negotiations would not be lost. The modification of the legal basis will in fact render void laws created under the previous rules.

With this objective in mind, it will be necessary that:

- The three presidencies agree on a common agenda and a distribution of tasks (*EPC*).
- The European Commission obtains the support of the Justice and Home Affairs Council presidencies and above all of the European Parliament, whose powers are enhanced by the Treaty (*EPC*).
- A compromise is reached between governments, which must accept the European Parliament’s role as a defender of civil liberties, and the European Parliament which must learn the language of security and strengthen its expertise on questions concerning Justice and Home Affairs (*CER*).
- The institutions prepare for the application of the new Treaty, with the definition of the composition and responsibilities of the COSI (Standing Committee on Internal Security), the coordination of the European Council’s work groups and the reorganisation of the European Commission’s Justice, Freedom and Security DG and of the European Parliament’s civil liberties and JHA (LIBE) Committee (*EPC*, *CER*).

IRREGULAR AND HIGH-SKILLED MIGRATION – NOT SUCH STRANGE BEDFELLOWS

Jakob von Weizsäcker, Research Fellow, Bruegel

Under the Hague programme, the EU is aiming to develop a common immigration policy by 2010. But which aspects of migration policy should be coordinated or harmonised and which should remain a national prerogative? This question is controversial and hard to tackle. But given the magnitude and urgency of the migration challenges, we cannot afford to ignore it. In the following, I will argue that European migration policy during the incoming French, Czech and Swedish trio of EU Presidencies requires a dual focus: on irregular migration and on high-skilled migration. Regarding these priorities, there are three key messages for policymakers:

■ The EU agenda on irregular migration must be balanced to succeed, combining tighter controls with humanitarian standards and agreement on a path to regularisation.

■ For the EU successfully to participate in the global competition for talent, the Blue Card draft directive needs to be strengthened and supplementary efforts need to be undertaken by member states.

■ For both economic and political reasons, it is more promising to pursue the European agenda on irregular migration and high-skilled migration jointly as a policy package rather than separately.

Europe's migration challenge is substantial and needs to be addressed with some urgency. There are three main aspects of that challenge. First, migratory pressure is on the increase as the populations of poorer countries in the neighbourhood of the EU are becoming more mobile. Second, EU member states with a significant stock of immigrants are confronted with a major integration challenge as the aspirations of many second-generation migrants are frustrated by poor education and poor labour market performance. If integration policies fail, large ethnic underclasses may become a permanent feature in the EU. Third, global competition for high-skilled workers has intensified owing to skill-biased technological change and globalisation and the EU struggles to attract and retain top talent. With the internal mobility agenda in the aftermath of EU enlargement settled for better or for worse, the time to address the external migration challenge is now.¹

1. This has also been acknowledged by the G-6, the interior ministers of Britain, France, Germany, Italy, Poland and Spain who meet every six months. Ideally, these countries would like to adopt a "European pact on migration" as early as October 2008 during the French Presidency.

PRIORITIES FOR A COMMON MIGRATION POLICY

A coherent response requires that the EU's common migration policy be developed further. The reason for this is to be found in the substantial spill-over effects between national migration policies, not least owing to the absence of border controls within the Schengen area. As legal migrants from third countries are also becoming more mobile both *de jure* and *de facto*, further EU-level coordination will be required. Given diversion effects, it can even be argued that EU policies on legal migration need to be more closely coordinated as the mobility of EU citizens within the EU increases. Unfortunately, migration continues to be a politically divisive subject in most member states. As a consequence, national priorities as reflected by government policy are often volatile. In view of this serious handicap, Europe's common agenda on migration should focus on the most pressing and least controversial challenges rather than aiming for perfection.

The first priority area for an EU migration policy should be irregular migration, as it is where EU coordination is most urgently needed. While irregular migration is difficult to quantify, estimates put the stock of irregular migrants in the EU at between four and eight million people with an inflow of perhaps as much as half a million per year.² The *de facto* mobility of irregular migrants within the Schengen area creates large spill-over effects. For example, an estimated 50 percent of the irregular Ukrainian migrants in Portugal entered the EU with a Schengen visa issued by the Austrian or German embassies.³ The argument for coordination on irregular migration is further strengthened by the expectation that irregular immigration pressures are set to increase in the coming years. If one takes irregular immigration from Mexico, a country with 100 million inhabitants, to the US as a benchmark, the immigration potential to the EU is large. There are some 500 million people living in the EU neighbourhood at an income differential to the EU that is comparable to the Mexican-US income differential.

The second priority area should be high-skilled migration, since the EU is falling behind in the global competition for talent and high-skilled immigration is comparatively uncontroversial. Foreign-born workers in Australia, Canada or the US are much more likely to be high-skilled than foreign-born workers in the EU. The phenomenal success of economic hot spots such as California is not least due to their ability to attract high-skilled migrants. A joint approach for high-skilled immigration would allow Europe to attract more skilled migrants than could be achieved through purely national policies by offering access to the entire EU labour market. The Commission's draft directive calling for the introduction of a Blue Card for high-skilled migrants is a step in the right direction but does not go far enough. Fortunately, the economic effects of high-skilled immigration are

2. See Franck Düvell (2006) - *The Irregular Migration Dilemma: Keeping Control, Out of Control or Regaining Control* in Franck Düvell (ed), *Illegal Immigration in Europe, Beyond Control?*, Palgrave Macmillan, New York.

3. See Maria Baganha, Jose Marques and Pedro Gois (2004) - *The unforeseen wave: migration from Eastern Europe to Portugal*, in Maria Baganha and Maria Fonseca (eds.), *New waves: Migration from Eastern Europe to Southern Europe*, Lisbon.

likely to be positive in virtually all member states. These relatively well-aligned preferences should pave the way for bolder measures that are needed for Europe successfully to participate in the global competition for talent.

Two major themes are not included in the proposed priorities for the EU migration agenda: less skilled legal migration and integration. This does not mean that these issues are not important. However, there are good reasons for them to remain a mostly national responsibility for the time being. The cross-border spill-overs for legal immigration are comparatively smaller than for irregular migration. The reason is that the legal status of those migrants remains non-transferable within the EU at least for the first five years. At the same time, preferences for less skilled immigration are highly heterogeneous among EU member states, not least owing to differences between member states in labour markets and social support systems. Hence, the case for a common policy on less skilled legal migration is currently not pressing. Similarly, while integration problems to some extent have the potential to cross EU borders, they remain a mainly domestic challenge. Furthermore, differences between member states in the composition of immigrant populations, institutional differences not least in education and labour markets, and subtle differences in outlook reduce the prospect for far-reaching EU legislation in this area. Nevertheless, a reinforced European dialogue on the challenges of integration clearly can provide political momentum to national integration policies and enhance their quality through joint learning.

IRREGULAR MIGRATION

In order to succeed, the EU agenda on irregular migration must be comprehensive and balanced, combining tighter controls with humanitarian standards and a path to regularisation. In some areas, EU-level coordination on irregular migration will lead to more restrictive policies. For example, border security at the EU's external frontiers is being tightened as a result of EU-level coordination. The reason is that purely national decisions on border security, while fully taking into account the greater costs of tighter border security, would not take into account the benefits of that tighter border security for other member states. But in other instances coordinated policies on irregular migration would tend to be less repressive than uncoordinated national policies. For example, member states may be tempted to treat irregular migrants harshly, hoping that this will drive them away to other EU member states. To counter these incentives, better standards for the decent treatment of irregular migrants should be agreed at the European level. A comprehensive EU agenda on irregular migration is needed, addressing both types of coordination problem. An agenda which only focused on repressive measures would lack balance and be politically unacceptable.

The agenda on irregular migration should include a European framework for the regularisation of irregular migrants. Mass deportation of irregular migrants is typically neither realistic nor morally acceptable. This then leaves regularisation as the least bad alternative. However, member states may have an incentive excessively to delay regularisation, hoping

that irregular migrants would be driven to other more generous member states. With excessive delays in regularisation, the stock of irregular migrants in the EU would increase further, resulting in corrosive effects on the legal system and allowing a substantial integration challenge to accumulate. But there is also a risk that some member states may decide on excessively speedy regularisation, which makes irregular migration *ex ante* much more attractive, thereby increasing the future flow of irregular immigration. In view of the required regularisation balancing act, the EU should create a framework that limits the extremes while leaving room for national decision-making in response to specific national situations.

HIGH-SKILL MIGRATION

For the proposed Blue Card to become a success, it needs to be made substantially more attractive. The most important reason why a European Blue Card can be more attractive than 27 different national schemes is that it could grant high-skilled migrants access to the entire EU labour market.⁴ Unfortunately, the Commission's current Blue Card proposal falls short in this regard. According to the current draft directive it would be almost as difficult to transfer to another member state with an existing Blue Card as it would be to apply for a fresh Blue Card in that second member state.

To stand a better chance of reaching agreement on a Blue Card that grants access to the entire EU labour market, the eligibility criteria for the Blue Card need to be refined. The current draft directive proposes proof of an employment contract with a remuneration level of at least three times the minimum wage as the minimum eligibility criterion for the Blue Card. Because the level of the minimum wage compared to the median wage varies substantially between member states, the economic rationale for the proposed eligibility criterion is weak to start with. More importantly, a Blue Card that can be obtained merely on the basis of, say, €400 monthly earnings in Romania is unlikely to be ever accepted throughout the EU. A more promising approach would be to allow skill and other characteristics to determine eligibility for a Blue Card jointly with a national salary threshold. Ideally, this would be achieved through a points system. On that basis, it should be much easier to agree on a Blue Card that would grant access to the entire EU labour market in a more meaningful way.

In addition to a strengthened Blue Card, member states may wish to consider investing in complementary measures such as expatriate infrastructure in order to compete better for talent. Sought-after high-skilled migrants often have a choice between different destinations. One important but often neglected determinant of their ultimate migration decision is the availability of expat infrastructure such as suitable foreign language schools for their children. Since most high-skilled migrants have a good command of English, availability of suitable expat infrastructure tends to be an especially important criterion

4. For a more detailed argument see Jakob von Weizsäcker (2006) – “Welcome to Europe”, Policy Brief 2006/03, Bruegel, Brussels – where the introduction of a European “Blue Card” was first proposed.

for moves into non-English speaking countries. The expansion of such expat infrastructure well beyond national capitals where it is currently concentrated is an example of a national measure that could usefully complement any EU effort on high-skilled migration.

A PACKAGE DEAL

It should be easier to pursue the required agenda on irregular migration and high-skilled migration jointly instead of separately – for both political and economic reasons.⁵ The high-skilled migration agenda on its own may risk being regarded as elitist while at the same time failing to confront the tough questions. The irregular migration agenda on its own would also be politically difficult since it would not only involve tightened controls but also the orderly regularisation of irregular migrants. But pursued jointly, the proposed European agenda has a balanced appeal that includes economic, humanitarian and enforcement aspects. The resulting immigration skill-mix is likely to be sufficiently attractive such that it can be readily absorbed.

There are good reasons why a better skill-mix of immigrants can be expected to increase the absorption capacity for immigration. A high share of high-skilled immigrants strengthens the positive fiscal impact of immigration and is likely to attenuate adverse distributional effects. Furthermore, skilled immigrants facilitate integration by reducing prejudice among the native population and acting as role models for other immigrants. It should be stressed that these advantages of a better immigration skill-mix do not imply that low-skilled immigration is generally harmful or not needed. Instead, it can be argued that the net contribution of low-skilled immigration is enhanced by the simultaneous presence of high-skilled immigration, which would also be reassuring from a development perspective. Differences in the skill-mix of immigration might go a long way towards explaining why countries like Canada, Australia and Switzerland – where every fifth inhabitant is foreign-born – find it politically easier to cope with immigration than countries like France, Germany or the Netherlands, where only every tenth inhabitant is foreign-born. Indeed, skill-mixing is the deeper reason why the high-skilled agenda and the irregular migration agenda should be regarded as a package deal.

Luckily, the incoming trio of presidencies has just the right skill-mix for the proposed agenda. France has ample experience with the challenge of irregular migration. The Czech Republic was the first EU country to introduce a points system for high-skilled immigration. And Sweden has an exemplary track record regarding the humanitarian aspects of migration policy. This trio has a unique opportunity to pursue a migration agenda where the sum is greater than its parts.

5. For more detailed argument see Herbert Brücker and Jakob von Weizsäcker (2007) – *Migration policy: at the nexus of internal and external migration*, in André Sapir (ed.), *Fragmented Power: Europe and the Global Economy*, Bruegel Books, Brussels.

A GLOBAL APPROACH FOR IMMIGRATION POLICY IN EUROPE – TIME FOR A COURAGEOUS DEBATE

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Almost every policy conversation about the future of Europe highlights demographic change and its effects: aging societies, shrinking labour forces and a major challenge to economic growth. While immigration is not a policy solution, it will be a necessary component, and Europe's policymakers are now recognising this. Both the French and the Swedish Presidencies have expressed the intention to make immigration a priority in the coming months.

At the same time, the debate is enclosed by the growing realisation that globalising forces, economic inequality and pure geography mean that national and even EU-wide policies will not be capable of controlling migration in all its forms. In a world where not even the most draconian administration can control its borders entirely, liberal democracies have to accept a certain level of policy "failure".

Politicians face increasing pressure to demonstrate control of migration flows, whether at the visible borders of the European Union, or through systems to sift through potential residents. But are they facing up to all the questions? As the Lisbon Treaty introduces a few new rules to the game for agreeing policies for the admission of third country nationals, this paper aims to highlight a few of the critical migration issues Europe must face over the next decade, and suggests that the EU's strength will be in taking a multi-pronged approach to immigration policies.

KEEPING EUROPE COMPETITIVE – MAINTAINING SKILLS

The Blue Card system proposed by the Commission in 2007 is a step forward, and has hopefully begun a debate about what skills Europe will need in the future.¹ However, it is also a product of political compromise, and as such will be only a short term strategy for Europe. It is insufficient to make the EU a player in the emerging global battle for the brightest and best, and underplays the fact that European countries will be competing with each other for skills in the future.

1. European Commission. 2007. *Proposal for a COUNCIL DIRECTIVE on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*. COM (2007) 637. October 23.

Some of the key elements for a successful high skill strategy are not immigration policies per se: flexible labour markets, recognition of qualifications and skills, portability of benefits, and above all the quality of the job opportunity offered. A truly competitive policy for the highly skilled will require a great deal of work outside the area of Justice and Home Affairs, and the European Union is well placed to take the lead in reforming labour markets to create a truly mobile workforce.

Policies to attract talent from outside the EU need to go hand in hand with policies to invest in the potential of young Europeans and to use effectively the overseas talent already in Europe. Measures to coordinate the recognition of key skills and qualifications earned outside of Europe, combined with efforts to improve the research and innovation centres across the continent may have more effect than policies which impose artificial distinctions between migrants according to skill.

LOW SKILLED MIGRATION – A PROPER DEBATE

As was predicted, and recent reports suggest, the plentiful source of labour from the new member states is beginning to peter out. Several countries – notably the UK and Ireland – tailored their immigration policies for third country nationals on the basis that this would be sufficient to find all but the most highly skilled migrant workers.

Member states have yet to articulate sustainable policies for sourcing labour at all skill levels. While some fall back on the *ex post facto* legitimisation of irregular workers already in-country, others are deeply against amnesties. Specific agreements with sending countries to obtain seasonal and temporary workers are currently limited. Circular migration – the mooted panacea for maximising economic benefit while minimising social impact – will be difficult to put in practice and has to be considered a partial solution at best.

Meanwhile less scrupulous employers are finding illegitimate ways to fill labour shortages with unauthorised working. Not only does this undermine the credibility of immigration policies and the EU's position as a bastion of fundamental rights, it also places migrants in potentially vulnerable situations. Member states need to go beyond the blind-eye attitude towards migrants working illegally, often exploited. European agreements to prevent amnesty programmes in Europe would be an extension of this mindset. Instead, the EU should work towards creating a real set of rights – particularly employment rights – for migrants, irrespective of status, and leave behind the weaker proposals of the past year.

However polarised the national debates have become, the European Union is well-placed to begin a serious, long-term debate over how to source such labour, and to investigate the potential of key neighbouring states, not least Turkey and Morocco.

INTEGRATION – MOVING AWAY FROM NATIONAL MODELS

Too often, the political debate on the integration of migrants becomes mired in national integration models, the goals and outcomes articulated by successive governments as characterising the self-image of each country. In France, for example, the promotion of citizenship as the primary tool for aiding the inclusion of migrants reflects the importance of maintaining a secular republic. The type and number of migrants in each country, as well as the historical policy narrative which accompanies their arrival, also shapes the way governments choose to deal with them.

This frequently masks the fact that, on the ground, the challenges of including new members of society, and ensuring strong communities, are the same across Europe. The burgeoning number of regional and city level networks in Europe is evidence that, at the local level, the bigger challenge of ensuring that the community remains a cohesive whole is one Europe can engage in. The European Union is already playing a role in promoting the exchange of experience between actors at all levels of government, and has provided a framework for thinking about integration with the Common Basic Principles agreed by the member states in 2004.

Beyond this, the EU needs to play a stronger role in articulating a European integration model which circumvents the outdated, nationalistic approach taken by member states. As governments decide what it means to be a European citizen in the twenty-first century, the European Union needs to play a key role in guiding this debate and thereby to forge a stronger consensus on access to citizenship which does not alienate.

Beyond this, integration policies need to be more closely integrated into border, immigration, labour and social policies which too often sacrifice the well-being of non-nationals in the pursuit of attaining policy goals efficiently.

THE GLOBAL APPROACH – HEADING IN THE RIGHT DIRECTION

At the EU level, one of the innovations of the past few years has been the philosophical shift from constructing border controls and common rules for admission towards looking outwards at partnership between sending and receiving countries. At the moment this is a shallow relationship, conceived in the shadow of the fortress and developed from a fear of influx rather than from any longer-term perspective. However, as disparities in demographics, economics and, increasingly, climates become more prominent between North and South, the European Union needs to deepen this relationship with developing countries in order to manage the flow of migrants seeking a better life.

By attempting to address the “root causes” of migration, an effort to limit the number of those forced to leave their home countries due to lack of economic

opportunity, the EU needs to look more closely at the impact of its development, trade, agricultural, governance and human rights policies. Integrating these elements into a broader migration policy agenda is necessary to deliver a genuine and innovative global approach, and will determine the success of partnerships with third countries.

PROSPECTS FOR THE “TRIO”

Rather than offering detailed recommendations, this paper will try to set out some principles for developing a longer-term perspective for immigration policy over the next two years, with an eye to the upcoming Hague II Programme for 2010.

Migration policies can no longer be conceived, drafted and implemented in isolation. Not only do immigration policies affect integration outcomes, and border policies affect asylum outcomes, but foreign affairs, trade rules, development aid, social models, employment laws all affect – and are affected by – immigration to Europe. In facing up to the realities of migration in the twenty-first century, the European Union must apply what it has learnt so far to all policy areas.

In terms of legislation, the French Presidency already has a great deal to tie up before the Lisbon Treaty comes into effect. Its proposals for an EU-wide immigration pact are politically ambitious yet short-sighted in policy terms. Placing a moratorium on amnesties for irregular migrants, for example, does nothing to resolve any of the underlying drivers for irregular migration.

Instead of promoting symbolic agreements, the French Presidency should begin a longer, more wide-ranging debate as to how European countries might deal with mass immigration in the future, taking into account the needs of the continent as well as the fears, and put forward ideas as to how management of migration can be achieved in a sustainable way. This includes creative ideas as to how to import flexibility into working and residence visas – allowing workers to return home periodically – and working with sending countries beyond isolated, capped labour immigration agreements.

This debate should be carried into the Czech Presidency – a presidency which will be burdened with the fallout from a large number of institutional changes. The first half of 2009 should become a “period of reflection” for immigration policies, an opportunity to gather detailed thoughts on how European countries want to deal with the social and economic impacts of migration in Europe over the next decade. The Czech Presidency is also well placed to begin a conversation on internal European migration, and the future of free movement in Europe. Is there scope for creating European regional labour markets which extend beyond the formal borders of Europe, and harness the economic potential of neighbouring countries?

The Swedish Presidency will be the moment to put this thinking into action through the formulation of the next five-year plan for the creation of an area of Justice, Liberty and Security. Consideration should be given to whether this should be limited to the sphere of Justice and Home Affairs, or whether creating a five-year plan for immigration and integration which genuinely incorporates the relevant elements of external relations, employment and social affairs and other stove-piped policy areas would improve holistic thinking across Europe.

Such a programme would be able to address the development side of the migration debate more substantively, and address the functioning of Europe's employment market for migrants. The institutional scope for determining immigration policies is widening, so is it time for a separate, broader Hague II Programme for immigration?

As the roots of European thinking on immigration become established, a long-term, multi-pronged and comprehensive approach is required. Rather than a rush to legislate, policy-makers should use the unique platform offered by the EU to have a serious open debate on some of the trickiest issues facing European societies, such as the future of citizenship, providing labour at all skills levels, and reducing illegality and its attendant vulnerabilities. The policies which evolve through this thinking will be the better for it, and the next eighteen months are the ideal moment.

EUROPEAN MIGRATION POLICY AND THE LABOUR MARKET – THINKING OUTSIDE THE SQUARE

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This policy paper concentrates on one of the most important current challenges for European migration policy, namely the need to manage effectively economic migration through legal channels while effectively combating irregular migration.

ADDRESSING THE NEEDS OF THE LABOUR MARKET

The segmented structure of domestic labour markets and the demographic deficit of Europe are leading to an increasing demand for a migrant labour force. This demand is concentrated in specific sectors such as cleaning, catering and caring jobs for women, and construction, agricultural work and semi-skilled jobs in manufacturing for men. There is a more limited need for high skill professionals (in the medical and IT sectors in particular) in selected EU member states. Since 1999 or 2000, several EU countries (e.g. Britain and Ireland) have adopted, albeit tacitly, pro-migration policies encouraging legal migration for selected categories of low-skilled and high-skilled people in response to the needs of their domestic labour markets. Other EU countries (Greece, Italy, Spain, Portugal) have tacitly tolerated different forms of irregular migration.

These contradictions in member states' policies and views on economic migration have been reflected in the development of an EU immigration policy. The area in which the EU has had the most difficulty in legislating has been the admission of third country nationals (TCN) for the purposes of paid employment and independent economic activity. In 2004, the European Commission had to abandon a proposal for two directives on this matter since member states widely disagreed on the content and scope of these directives.

The European Commission has sought a way out of the impasse by discussing several initiatives targeting specific modes of migration (the Blue Card scheme, circular and temporary mobility, seasonal migration) which are believed to suit the fluctuating needs of EU labour markets. It is questionable whether a piecemeal approach can address the needs of member states' labour markets through legal migration channels. The EU needs a comprehensive albeit differentiated approach that takes into account the complexity of labour-force supply and demand as well as the motivations and pathways of different types of migration from different source countries.

THE NEXUS BETWEEN LEGAL AND IRREGULAR MIGRATION

EU immigration policy in the field of combating irregular migration has enjoyed wide support and has developed fast. However, despite the political will to combat irregular migration and the resources in money, personnel, and high-technology equipment devoted to the task, results are not satisfactory, at least compared to the volume of resources and intensity of efforts. The challenge of effectively discouraging irregular migration and diverting it to legal channels remains.

It is increasingly complicated in the European Union to distinguish between legal and irregular migration. During the last decades, the dividing line between regular and irregular migrants has become increasingly blurred as people may shift from illegal to legal status (through regularisation programmes of different types) but also fall back into illegality (because of failure to comply with stringent work and stay rules). Also people may enter a country legally as tourists, economically independent persons or asylum seekers and then engage in paid employment without appropriate authorisation. This uncertain and variable nature of immigration is characteristic of late industrial societies and their labour markets, and cannot be changed or made to disappear through control policies only.

It is questionable whether employer sanctions (a draft directive is currently under discussion) can effectively combat irregular migration. Studies on similar efforts in the USA in the 1990s have shown the limits of this approach. Imposing tough sanctions on employers who knowingly hire irregular migrants raises several questions.

- Do employers have the knowledge and means to effectively check whether the migrants' documents are valid?

- Will this lead to discrimination (as it did in the USA) towards foreign looking people or people who do not speak the language fluently, regardless of their migration status?

In the USA, employer sanctions made employers reluctant to hire "foreign-looking" people or people who did not speak perfect English from fear that these people did not have their documents in order. This indeed led to an increase in discrimination against citizens and permanent residents of Hispanic origin in several states of the USA. This risk is tangible in many European countries with long established migrant populations who have naturalized or received indefinite stay: these people run the risk of further discrimination in the labour market because they look "foreign" or "irregular"; and informal employment may not be effectively reduced.

UNAUTHORISED ENTRIES

Print and electronic media across Europe often report that floods of migration are unstoppable despite sophisticated border control equipment and trained personnel. But hard facts do not confirm this view. The reality is that total numbers of unauthorised entries are low in both absolute and relative terms:

■ In 2005 there were less than 30,000 irregular immigrants arriving through the EU's southern sea borders.

■ In 2006, the number of interceptions at the southern sea borders of the EU increased to 50,000 approximately. This represents a 70% increase but still a rather small number compared to a total immigrant population of more than 8 million in the southern European countries and a total resident population of 110 million.

■ Regarding land borders, during 2007 Greece has apparently experienced a migration crisis with increasing number of irregular aliens attempting to enter the country; indeed police authorities have apprehended about 43,000 people attempting to cross the Greek land borders illegally. That is 10,000 less than the previous year (2006) and 5,000 more than in 2005.

■ The joint FRONTEX sea border control operations HERA I and HERA II over the summer and autumn of 2006 had a total cost of 3.5 million euro and succeeded in intercepting about 4,000 irregular migrants near the African coast at the beginning of their journey towards the Canary Islands. Border controls risk being economically irrational and politically inefficient in the absence of a diversified and targeted approach to specific types of irregular migration.

What these numbers say is not that irregular migration is not an important social issue but that the majority of irregular migrants enter the EU legally – they have little to do with dilapidated dinghies at the sea borders of the EU and more to do with EU labour markets.

APPROACH THE PROSPECTIVE MIGRANTS NOT THEIR GOVERNMENTS

Tackling irregular migration is inextricably linked with an appropriate management of legal opportunities for migration and employment in the EU. Action should mainly target migrants themselves, not only their governments.

There is a need to develop more effective information campaigns in both transit countries and countries of origin of legal and irregular migrants.

We need to provide information in the languages of the countries of origin/transit. Such information should be provided through the channels of informal networks rather than through official channels of communication by public entities, immigration services, or the police. In many of the countries of origin/transit, governments are authoritarian and mistrusted by citizens.

Prospective migrants and their informal networks in the countries of origin/transit can be reached in the following ways:

- Short TV or radio spots with migrant celebrities (e.g. athletes or artists who are famous in the countries of origin/transit and/or in the countries of settlement – to take advantage of transnational networks of artistic expression).
- Financing of information campaigns by NGOs and other informal local networks (including village/tribal leaders where applicable, local authorities, travel agencies and other migration industries involved in the organisation of international movements – in order to persuade them that more information can improve their business, make it safer and more profitable).
- General media programmes in the local/national radio, press, television.
- Promotion and funding of cooperation between migrant organizations in the countries of settlement and local networks/organisations in the countries of origin.
- EU governments cannot combat the financial power of human smuggling networks but they can be more sophisticated in their communication and networking approaches, and provide for alternative benefits (institutional and financial support) other than crude cash paid by prospective irregular migrants for transport – we need to disrupt the link between criminal networks and semi-legal activities, by involving employment agencies, travel agencies, or the migrant press.

FIND OUT MORE ABOUT THE LINKS BETWEEN REGULAR AND IRREGULAR MIGRATION

Why do some countries need migrants to work in their informal labour markets? We propose the following ways to address the needs for irregular migration in member state economies:

- Respond to the needs of domestic labour markets and adopt more flexible arrangements (e.g. reduction of welfare contributions) for certain occupations; develop mechanisms to respond swiftly in labour market needs and simplify red tape when inviting foreign migrants.

■ Promote via trade unions and NGOs forms of self-organisation of the migrants (e.g. cooperatives) that help migrants to achieve and maintain legal status while working in sectors such as cleaning, caring or catering that are by nature difficult to regulate and where individual workers perform tasks for a variety of small employers.

■ Acknowledge and legalise the role of networks in finding employment for newcomers. Useful examples of such policies have been the “sponsorship” measure applied in Italy between 1998 and 2001, or the granting of residence permits to independent workers with individual business plans in the UK in the early 2000s. Such policy experiments need to be extended and tested in different member states – the idea that migrants have to secure a job before arriving at their destination has proven to be wishful thinking in many countries, and led to large numbers of unauthorised workers.

■ Study the link between legal opportunities and the reduction of irregular migration. Would actual or prospective migrants wait for a legal opportunity to move rather than risk the irregular journey, stay and employment? How long would they wait? What other incentives can affect the timing of their decision to migrate (e.g. longer permit duration, assistance for housing or allowances for children’s education)?

■ Study the reality of major sending countries and devise appropriate measures to discourage irregular migration. The motivations of a sub-Saharan African and the risks that s/he is willing to take to migrate illegally are different from those of a Russian, Chinese or Egyptian person. Different levels of economic need (ranging between absolute poverty to the wish to improve one’s living standard) and different perceptions of what is an acceptable standard of living impact on migrants’ decisions. While people who are motivated by the wish to improve their economic situation or help their children go to university or start a business may be persuaded to wait for a year or two to migrate legally through a points system platform, people who flee environmental disaster and dire poverty cannot be effectively discouraged by border controls. Here a different approach can be promoted, of seasonal migration, for instance, where return to the country of origin is rewarded through a bonus at the end of the seasonal employment.

■ Develop a points system that assigns points to individuals in relation to their education, skills, family ties with an EU member state, studies, prior living in that member state, and other facts. Such points would have a different weight factor for different sectors of occupation. The points system should have an EU dimension facilitating the mobility of workers across member states and contributing to common-market integration. This scheme could effectively combat illegal entry and employment if applied efficiently, so that migrants could see a real chance for getting into a European country where they have information that they can find employment. The scheme should be widely advertised in the main countries of origin.

■ The points scheme for high-skill migrants should encourage the return of these migrants to their countries of origin to avoid or at least reduce the effects of brain drain.

Receiving countries should provide for financial and institutional incentives for return, such as a lump-sum fund upon return to encourage starting a business in the country of origin, and a preferential path of re-migration to the EU after two years of work in the country of origin.

Alongside these initiatives, more traditional measures for combating irregular migration need to continue. There should be increased efforts for capacity building and transfer of human rights' standards for the treatment of irregular migrants in non-EU transit countries. This can be achieved with the renewal and extension of past programmes like AENEAS, ARGO and ODYSSEUS. Such programmes should involve both state and civil-society actors in the EU and in the third countries, with a view to training officials but also to raising awareness of the humanitarian dimension of irregular migration and people-trafficking among the populations of sending, transit and receiving countries.

Programmes for cooperation and development that reward countries of origin for trying to regulate the flows on their side of the border could focus on developing local self-help schemes, which promote sustainable growth and tackle basic needs such as clean water, food and education. A recent successful example is the Brazilian government's "bolsa familia" scheme that gives cash allowances to poor mothers (in this case not migrants but natives) who keep their children in schooling.

Fighting irregular migration while catering for the EU labour markets requires a change in direction of European migration policy. We need to rationalise the approach to border control and review the amounts spent on personnel and equipment. Is this the best way to use European citizens' money? Are we effectively curbing illegal migration or are we simply raising the death toll or the exploitation of irregular migrants? While catering to the needs of EU employers, we need to understand better the varied motivations and paths of irregular migration, and devise paths for legal migration that respond better to the needs and motivations of migrants. We need to approach migrants rather than their governments and make the best possible use of local networks and organisations.

EU PERSPECTIVES ON LEGAL MIGRATION AND ASYLUM

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THE TRIO PRESIDENCY AND THE IMPERATIVE OF “COHERENCE”

Following the Hague European Council in 2004, the goal of “comprehensiveness” or “coherence” has become the central tenet of the EU’s activities in the area of legal migration and asylum. From the conclusions of the Hague European Council, one can surmise that a coherent migration policy will boast three elements:

■ “Horizontal coherence”, taking advantage of the full range of tools offered by the EU in different policy areas (not merely legal migration, illegal migration and asylum policy but also foreign, social and economic policy).

■ “Vertical coherence”, emphasising the implementation of EU policy at different levels of government or civil society.

■ And “bloc coherence”, in which all those EU states that have opted into asylum policy show a commitment to collective goals on the basis of solidarity.

Both the EU’s current legal migration activities and its asylum policies are in real need of all three types of coherence.

With key debates in both policy areas just kicking off, it would appear that the incoming Trio Presidency is well-placed to steer developments in a coherent direction. Yet, given the limited powers afforded the EU’s presiding governments, the possible existence of countervailing national interests, and the complexity of negotiations between so many actors, EU Presidencies are in practice considerably restricted in their scope to steer EU developments. This is particularly the case in legal migration and asylum policy, where the political situation is typically tricky.

LEGAL MIGRATION: TIPTOEING THROUGH THE MINEFIELD

At the Hague, the European Council decided the EU should develop a policy plan on the highly sensitive question of legal migration. This plan was duly introduced by the Commission in December 2005. Since then, two regulations (a framework regulation and a

regulation on highly qualified labour migrants) have been presented by the Commission, and three other regulations, this time on immigration opportunities for less qualified labour, will be presented by 2009.

The reactions in the member states have been varied to say the least: whereas the proposed framework regulation was widely accepted, the proposal for attracting highly qualified labour – the Commission's so-called "Blue Card" proposal – has met with substantial criticism. Fears concerning the control of access to national labour markets were prominent, reflecting the highly sensitive nature of public debate on these issues. The prospects for progress appear bleak.

In Council, some states including Spain and Italy have certainly been supportive of the proposal. Others, like Germany and Austria, are decidedly hostile. For the new member states, meanwhile, the prospect of opening up labour markets to non-EU citizens is politically unacceptable so long as labour market restrictions on their own citizens remain in place.

In tandem with the renewed focus on legal migration, a discussion on temporary labour migration is underway. In the Commission's view, this kind of migration could be of real value for development policy: the transfer of knowledge between destination country and country of origin could reduce the negative effects of "brain drain". Furthermore, circular migration could help the members of a diaspora to invest in their home countries and create employment.

The Franco-German pair of Nicolas Sarkozy and Wolfgang Schäuble presented a rather different conception in 2006. They called on the member states to work more closely to safeguard internal security by combating irregular migration through new instruments, possibly comprising temporary labour migration. The member states would thus be expected to place national labour migration quotas at the disposal of the Commission. The Commission could then use them in its negotiations with third countries on the readmission of irregular immigrants.

Since the introduction of the Franco-German initiative, a lively debate on the topic has emerged. Critical voices charge ministers not only with commandeering development policy tools for reasons of internal security, but also with re-heating old guest-worker policies from the mid-1950s to provide short-term solutions to labour market shortages. More fundamentally perhaps, criticism has also been directed at the apparently unproductive nature of the debate. Arguments and positions have been repeated in the frequent rounds of debate without any real clarity being achieved. There is a danger not only that the debate on circular migration will remain nebulous, but also that this debate will impinge upon negotiations on the Commission's proposal to attract highly qualified labour.

EU ASYLUM POLICY: A CASE OF SPLIT PERSONALITY?

The EU's current asylum agenda is somewhat schizophrenic. On the one hand, the EU asylum agenda since 2004 has been largely concerned with consolidating progress already achieved. As part of this consolidation, the Hague European Council recognised the need to evaluate the EU asylum measures already adopted. On the other hand, the goal of completing construction of a Common European Asylum System (CEAS) as set out by the Tampere (1999) and Hague (2004) European Councils requires a forward-looking approach if it is to stand any chance of success before the headline date of 2010.

The Hague Programme called for the thorough evaluation of the existing (or "first-phase") EU asylum measures by the end of 2007 as a pre-condition for the further development of the CEAS. This 2007 deadline was always an unrealistic prescription. The last of the first-phase measures was, after all, only adopted in 2005. Indeed, commentators wonder what arrangements will be made to evaluate the controversial asylum procedures directive (2005/85/EC). There is a real need for evaluation if the smooth functioning and comprehensive implementation of the first phase are to be secured.

Moreover, these efforts must somehow be reconciled with the Hague timetable for the second phase. In 2007, in order to kick off the long process of adopting a second phase of asylum measures, the European Commission released a Green Paper consultation. Under the current Slovenian Presidency, and with the responses in, the EU is now formulating its agenda. The Hague Programme had already laid out the overall form of the second phase. It calls for the establishment of a common procedure for deciding upon asylum applications and a uniform status for those granted asylum and subsidiary protection. It also suggests the establishment of a European Asylum Support Office. Much remains to be decided though, both in terms of the goals and functions underpinning these three elements, and the measures that ought to complement them.

GENERAL LESSONS FROM THE CURRENT TRIO, 2007-2008

It was suggested above that the trio may struggle to influence the EU policy process, let alone succeed in promoting the core goal of coherence. General lessons learnt from the current trio show how governments can nevertheless make the most of the trio arrangements:

- Coordination between trios: unless especial care is taken, disjunctures between successive trios can arise. This is a particular concern in the area of Justice and Home Affairs, where programmes have been set by the European Council for five-year periods. The incoming French chair must therefore make a real effort to coordinate with the preceding trio and in particular the Slovenian Government.

■ Coordination within the trio: under the trio system, responsibility for certain issues could usefully be distributed between the three presiding governments not on the usual chronological, six-monthly basis but on a thematic basis. One government would thus take the lead on a certain topic for at least one year. Although presidencies from large member states should be wary of giving the impression that they are “extending” their six-month term of office, it is important that they offer other members of the trio practical support.

■ Coordination at the national level: some governments in the current trio overcame the problem of domestic opposition to their handling of the presidency by stressing to domestic actors the “European responsibility” of the office. In this way, potential squabbles between political parties were headed off, sometimes via formal agreements in which all parties undertake to behave responsibly for the six months of the office. Unhealthy disagreements between ministries were avoided by making sure that the powers and role of the “lead ministry” were clarified in advance.

■ Respect for smaller states: the G6 meetings bringing together the interior ministers of the EU’s six largest states will prove as tempting a channel for the French Government in its agenda-setting efforts as it did for the German Government. However, the French should bear in mind that the subsequent negotiation of G6 proposals in Council may be slow, as the smaller EU states finally have their say. The trio should also avoid setting too high a tempo for negotiations: small states will struggle to formulate their positions in time, and their concerns may be reflected later in the poor implantation of agreements.

■ Respect for the European Parliament: by keeping the Parliament, and in particular the LIBE committee, well-informed of developments in Council, the trio avoided an all too antagonistic relationship with that institution. MEPs who belong to the governing party of the presiding state often played a central role in these efforts.

■ Respect for European publics: the outgoing trio has often kept public interest in migration policy negotiations to a minimum. This is supposed to facilitate the negotiations, exonerating national governments from tying themselves publicly to a certain position which they might later regret. This behaviour is ultimately counterproductive to presidency goals, potentially damaging the EU’s public support and thus its real capacity to act.

■ Respect for the new EU President: as “EU President”, the respective head of state/government currently has a key role to play in pursuing the goal of coherence. With the likely entry into force of the Treaty of Lisbon in 2009, his or her role will diminish, as an EU President is elected for 2½ years. The head of state/government’s duty to perform a representative role, this time in close cooperation with the new EU President, remains.

FROM THE GENERAL TO THE SPECIFIC: APPLYING THE LESSONS TO LEGAL MIGRATION AND ASYLUM POLICY

Good political management in legal migration policy:

■ In dealing with the sensitive migration issues thrown up by the proposed regulation on highly qualified labour, the incoming trio will be exceedingly limited in their capacity to show the “disinterested leadership” commonly associated with policy progress in the Council. They cannot be expected to set aside national interests and sensibilities in this area. Yet if the outgoing trio’s successful handling of sensitive migration proposals is anything to go by, no heroics are required from the incoming trio if progress on legal migration is to be made. Although prosaic, the good management of the policy process is a core presidency task and, if performed well, can serve to diminish unnecessary friction around these topics. Good management involves keeping the timetable for negotiations in Council realistic, circulating documents in good time, and keeping actors informed of presidency plans.

■ Good management also involves ensuring that other issues do not draw attention away from the main topics at hand. Ideally, temporary migration might function as a tool to complement the EU’s burgeoning efforts at tackling legal and illegal immigration. If well handled, the debate on temporary migration should increase the “horizontal coherence” of EU migration policy, creating synergies between foreign, development, social, economic and/or internal security policy. There is, however, a real risk that the member states will energetically engage in a nebulous and unproductive debate about temporary migration in order to escape the onerous task of thrashing out the regulations on legal migration. It is up to the trio, and particularly the French Presidency, to map out the available options and the member states’ preferences quickly:

■ It must be decided whether the concept of temporary migration intends primarily to achieve goals relating to development policy or migration policy, since the programmes’ concrete form will depend on this.

■ It must be determined whether the concept of circular migration actually means repeated or simply one-time migration. This is a significant difference. In order to avoid the pitfalls of past recruitment policies, provision of integration measures should also be considered for temporary migrants when staying for longer periods (temporary integration).

■ It should be taken into account that temporary migration programmes can only achieve sustainable outcomes when they are incorporated into comprehensive migration concepts. To this end, the conditions under which a temporary stay can be converted into a permanent stay should be clarified.

Opportunities for leadership in EU asylum policy:

■ Much of the trio's term ought to be taken up with the evaluation and adjustment of the first-phase measures. It is imperative that the trio affords this process the importance that it deserves. The need for a proper evaluation of the asylum procedures directive, for example, is clear if the "vertical" and "bloc" coherence of asylum policy are to be ensured (see above). If the Commission proves unequal to this task, the presidency should ensure that the EU exploits UNHCR's willingness to perform an evaluation. The question of the financing of such a study must be quickly settled. It is also worth mentioning that it may fall to one of the incoming trio governments to show the leadership required to implement certain mechanisms catered for by the first phase but still lying idle. Should the situation arise, for example, the mechanisms concerning "mass influxes" of refugees would require the member states to look beyond their narrow interests to show solidarity with one another and with asylum-seekers.

■ Members of the incoming trio appear to be looking forward to leaving their mark on the final preparations for the second phase of the CEAS – tying their name to the second phase agenda in the same way as the Finns did for the first phase. A different kind of leadership may, however, be required of the trio. The overly ambitious timetabling for the second phase is disrupting the consolidation of the first phase. If the trio really aspire to play a constructive role in EU asylum policy, they should now consider renouncing their aspiration to leave a "personal mark" on the CEAS agenda: they should instead give voice in Council to the arguments for pushing back the current timetable for the second phase.

COMMENTS ON THE COMMISSION'S "BORDER PACKAGE" OF FEBRUARY 2008¹

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On 13 February 2008 the European Commission presented a new "Border Package", billed in a Commission press release as a "comprehensive vision for an integrated European border management system for the 21st century". One of the key elements of this package is a communication aimed at establishing an EU entry/exit system registering the movement of specific categories of third-country nationals at the external borders of the EU.² This communication also recommends the setting up of an Automated Border Control System enabling the automated verification of a traveller's identity (for both EU citizens and non-citizens alike), based on biometric technology, as well as an Electronic Travel Authorisation System which would oblige non-EU travellers to provide personal data for a pre-departure online check.

These security tools and techniques imply:

■ The setting up of a new Europe-wide database containing specific information on certain categories of non EU-nationals.

■ Interoperability of the database with other already-existing and planned EU databases and biometric systems.

■ The systematic checking of everyone entering and leaving the EU for at least three categories of persons:

– third-country nationals who have visas containing biometric data, which will be checked at the border,

– third-country nationals who do not need visas for a short stay in the EU, whose biometric data will be taken at the border,

– citizens of the EU whose biometric data will be incorporated into their passports to be swiped on entry and exit.

1. This contribution falls within the scope of the CHALLENGE project – the Changing Landscape of Liberty and Security, funded by the Sixth EU Framework Programme of DG Research, European Commission (see www.libertysecurity.org).

2. COM(2008) 69 final, Brussels, 13.2.2008.

AN OUTLINE OF THE PROPOSED MEASURES

The main group of people targeted by the EU entry/exit system are third-country nationals admitted for a short stay of up to three months, regardless of whether they require a visa to enter the EU or not. Only holders of a local border permit, national long-stay visa or a residence permit as well as third-country nationals who are exempted from stamping (e.g. pilots, diplomats) will not be registered in the system. The database will include data on the time and place of entry, the length of stay authorised, the transmission of automated alerts to the competent authorities as well as biometric data of the people registered.

The communication furthermore suggests that those falling within the category of "low-risk travellers" could be awarded a Registered Traveller Status and be subject to an automated regime of control. The criteria for labelling someone as "low-risk" would include factors such as a reliable travel history (mainly no previous overstays), evidence of sufficient financial means, holding a biometric passport containing fingerprints, successful visa applications, etc. However, to become a low-risk traveller, the third-country national would need to have previously travelled to the EU and stayed for a while.

The communication then recommends exploring the possibilities for setting up a European Electronic Travel Authorisation (ETA) system that will request third-country nationals to make an electronic application supplying personal and passport data before departure, which would be a condition for their entry into the EU. A third-country traveller would only be allowed to enter when the on-line check against certain databases reveals no contrary indicator.

However, it is not only foreigners who are expected to "profit" from the new era of "border control by technology", liberated from any dealings with border guards. The Automated Border Control System will also apply to EU citizens entering and leaving the external border. EU citizens will have to have an e-passport containing biometric data (expected to be in place by 2019 for two biometric identifiers) which the system can read and check against EU and national databases. The Commission's impact assessment reads as follows in this respect: "The primary requirement of an Automated Border Control process for EU citizens is to automatically verify the claim of EU citizenship through the authentication of the travel document and traveller".³

3. Commission Staff Working Document, SEC(2008) 153, 13.2.2008, p. 55. In fact, a remarkable vision: machines at border crossing points will henceforth determine whether an EU citizen's claim of his EU citizenship is verified!

A CRITICAL ASSESSMENT

As regards the collection of personal data, European databases, whether public or private, are subject to laws. These laws, at national and EU level⁴, have been designed to protect the individual against misuse of his or her data and derive from general principles of EC law, particularly those of proportionality and fundamental rights. Whenever a public authority plans the development and implementation of a new database containing personal data the following questions must be addressed: What are the goals pursued by this database? Do they correspond to a real social need that is legitimate and goes no further than what is necessary to achieve the purported objective? What are the mechanisms of protection offered to the fundamental rights of the targeted individual?

Between the Commission's new proposals and the tests of proportionality and fundamental rights, there are certain tensions.

First, it is claimed that this EU system would facilitate the entry of *bona fide* travellers. However, as far as we have been able to ascertain, *bona fide* travellers do not currently encounter any obstacles to entry that such a system might address. The development of EC Visa Facilitation Agreements with most of the countries in the European region is already designed to facilitate the entry of *bona fide* third-country nationals, and even these agreements, which cut the red tape, have been subject to criticism. A measure that would increase red tape and the risk of mistake, error and malice is unlikely to facilitate entry of *bona fide* travellers.

Second, very few third-country nationals issued with visas face any difficulty at the EU external border, and this proposal addresses first and foremost third-country nationals who require visas to come to the EU. If EU visa officers in the countries of origin do their job properly then they command the respect of their counterparts at the external frontier. The introduction of another system of checks and the creation of a new database is likely to increase suspicion between visa officers abroad and border guards at the external frontier.

Third, the proposal also suggests that such a system would assist in determining how many third-country nationals overstay their visas each year. This objective, however, is statistical in nature and could be addressed with much less expense and intrusion by using intelligent ideas from statisticians on how to capture data. Quite rightly, the proposal does not suggest that the system would have any actual consequence for third-country nationals overstaying their visas, since finding them is quite another matter from simply recording in a database who entered and who left. And this leaves aside the further complications of third-country national family members of EU nationals, asylum seekers who are lawfully in the EU during the procedure and all those other cases where an

4. E.g. the Council Data Protection Directive, OJ L 281, 23.11.1995, p. 31.

individual's status changes while s/he is in the EU. The certainty of miscalculation, erring on the side of over-counting, would only create anxiety in a public already concerned about the adequacy of immigration controls at the external borders.

Fourth, not one of the above considerations addresses the rights of a data subject to privacy and protection. Not only is the proportionality of the initiative acutely in question here, but important issues remain unresolved – such as the length of time for which the data would be retained, the duty to limit who has access to that data and the right to correction of the data. This should also concern EU citizens, as they are intended to be subject to the Automated Border Control System. Although it is stated that their data would not be stored, the automated gate system would nevertheless “read and extract the information from the travel document, capturing biometrics and performing the verification to enable entry or exit, as well as random checks of the SIS and national databases.”⁵ What kind of national databases is not further specified and in the age of ‘interoperability’, anything might be possible one day – including the involvement of national tax authorities, social welfare offices, etc. It is surprising that the Communication attempts to present the establishment of these security tools “for the benefit of” *bona fide* travellers, who would then experience an automated and faster processing at EU external borders. There appears to be an untested belief shared by some EU officials that this logic of speed in people's lives should take precedence over its implications for fundamental rights and privacy. In addition, Europeanisation processes are encouraging the belief that technology represents the solution to any imagined threat to security; little consideration is given to the possibility that it may end up creating more insecurity in terms of data protection.⁶ Rapidity is often difficult to reconcile with liberty, as judges know well. The Commission should better acknowledge the fact that the use of technology is aimed mainly at facilitating the control of mobility, not at making the lives of individuals easier.⁷

Fifth: although the question of feasibility might be one for the technical experts to answer at first, it is worth imagining the dimensions required to realise the proposal. The logistics of getting every border post in 28 countries (assuming Ireland and the UK are out but Denmark, Iceland, Norway and Switzerland will be inside via their Schengen participation) tooled up and connected to such a system – which is a precondition for its working – are gigantic. Making sure that the system and its interlinkages with all the other EU databases are secure will be even more challenging. At the rate at which personal information is currently misplaced or corrupted by administrations around the EU, it will not be surprising if experts have differing views on the feasibility of such a project.

5. COM(2008) 69 final, Brussels, 13.2.2008, p. 6.

6. On this latter aspect, see D. Bigo and S. Carrera, “From New York to Madrid: Technology as the Ultra-Solution to the Permanent State of Fear and Emergency in the EU”, CEPS Commentary, April 2004.

7. See also, D. Bigo, S. Carrera and E. Guild, “What Future for the Area of Freedom, Security and Justice? – Recommendations on EU Migration and Border Policies in a Globalising World”, CEPS Policy Brief, March 2008.

Sixth, in light of the systems and databases already in place or soon to be active, one wonders whether this new package is actually necessary. All third-country nationals who need a visa to enter EU territory will already be registered in the soon-to-be Visa Information System (VIS). Name, address, biometric photograph, fingerprints, etc. will be stored and available for immigration and law-enforcement purposes. Next, we have the database EURODAC to gather and store data on asylum seekers and persons apprehended in connection with irregular crossings of external borders (and EURODAC is also available to run searches on third-country nationals found illegally present in a member state, including visa over-stayers). Then there is the Schengen Information System (SIS), which contains nearly a million entries on wanted persons, the majority of whom are persons who should be denied entry to the Schengen area. SIS (as well as national databases in member states) are consulted not only during the visa application procedure but again at the border post itself. The Schengen Borders Code requires EU border guards to conduct a “thorough check” of third-country nationals. This implies a check to determine the purpose of stay as well as the existence of sufficient means of subsistence. A stamp has to be affixed in the traveller’s document stating the date of entry. Additional checks of the person, including yet another search in SIS and national databases, are possible when leaving EU territory. Before arriving at EU borders, Directive 2004/82/EC⁸ requires air carriers to supply EU border authorities in advance with an extensive set of personal data of all travellers on incoming flights. Finally, there is the Commission’s proposal to establish an EU Passenger Name Record (PNR) System,⁹ Even more personal data including payment information, seat number, travel agent, baggage information, etc., on all passengers entering or leaving EU territory by airplane would be gathered, stored, processed and analysed under this PNR scheme. And yet, all this is not enough, the Commission argues.

CONCLUSIONS AND RECOMMENDATIONS

The Commission’s proposal is ill-considered and is likely to have substantial counter-productive effects on the ground. It is expected to create the same sort of problems as do similar US measures among a travelling public that finds itself increasingly as a object of state suspicion, without reference to concrete reasons or grounds.

It is by no means clear that the proposed entry / exit system will provide any useful or reliable data on overstays by third-country nationals in the EU. The communication does not present any reasonable and proportionate objective, and the system is likely to offend a myriad of European laws and principles of data protection and use.

8. Council Directive 2004/82/EC, OJ L 261, 6.8.2004, p. 24.

9. OM(2007) 654 final, 6.11.2007, mimicking the EU-US PNR agreement of July 2007 which itself has been much criticised by the European Parliament’s LIBE Committee as well as national chambers, see e.g. German Bundesrat, Bundesratsdrucksache 826/1/07, 4.2.2008.

The EU and its institutions, as well as the member states, need to comply with the EU legal system of guarantees and protection offered to the individual at times of applying EC law and implementing the EU integrated border management strategy. The latter should position the rule of law as one of its founding premises. In fact, it is the relationship between proportionality, data protection and the new technological security surveillance systems proposed by the communication that is the real challenge for a "comprehensive vision for an integrated European border management system for the 21st century".

The Commission envisages that the system will be operational by 2015. Legislative amendments to the existing EU border law *acquis* will be required to implement all the planned measures. The Commission has committed itself to assess the presentation of these new legislative proposals based on the debate around its communication. It also emphasised that the EU must remain open and accessible to others if it wants to disseminate its values and support economic growth.¹⁰

In light of this commitment, we recommend the following:

- All involved actors should carefully and thoroughly establish whether the envisaged measures are truly necessary and proportional and live up to the common vision of an open and welcoming Union that is founded on the principles of liberty, respect for human rights and the rule of law (Art. 6 TEU).

- The enhanced use of new technologies in the changing landscape of European Security Policy must be duly tested against its ethical implications.

- No new EU large-scale IT systems of the dimensions of SIS II and VIS should be agreed upon and established before SIS II and VIS are actually operational and have proven to be proportional, safe and reliable.

- The Commission and the private sector should advance the idea of "data protection by design"¹¹, and make it an obligatory element in the programming of new and existing databases.

- Finally, none of the legislative proposals required to install the Commission's new Border Package should be tabled before the Lisbon Treaty has entered into force, as the latter provides for the necessary democratic and judicial checks and balances.

10. COM(2008) 69 final, Brussels, 13.2. 2008, p. 2.

11. This idea entails the concept that data protection elements, like storage time, information to the data subject, etc. are governed automatically. E.g. after the legally allowed data retention period, the stored set of data would automatically be deleted from the database, similarly an automated notification will be sent out to the individual once his/her personal data has been stored, etc.

JHA'S CHALLENGING PATH – FROM AMSTERDAM TO STOCKHOLM VIA LISBON

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Talleyrand, the famous French negotiator at the Congress of Vienna, said that one can do a lot with bayonets – except sit on them. The same could certainly be said, *ceteris paribus*, of the Lisbon Treaty's provisions on Justice and Home Affairs (JHA), which will inevitably influence the EU policy agenda in the long run, but also in the near future.

If the new European Treaty is ratified as expected by 1 January 2009, the changes brought to the area of freedom, security and justice (AFSJ) will give a pivotal role to the upcoming French, Czech and Swedish Trio Presidency. However, the changes could also greatly constrain their room for manoeuvre. More than in any another policy field, the relay hand-over between the three presidencies will therefore be paramount, requiring both coordination and a clear separation of tasks.

At stake is not only the smooth transition from the Amsterdam to the Lisbon regime, but also the thorough preparation of the first year of the Treaty's implementation in justice and home affairs, and the shaping of an ambitious yet concrete 2010-2015 strategy. A thorough analysis of the provisions of the Treaty of Lisbon in the AFJS is therefore needed.

FROM AMSTERDAM TO LISBON

The momentum provided by the Lisbon Treaty to the AFSJ cannot be underestimated. The latter will be grouped entirely under a new Title V of the Treaty on the Functioning of the European Union, formally putting an end to the intergovernmental nature of Police and Judicial Cooperation in Criminal Matters (the "third pillar"). The development of a common area of Freedom, Security and Justice gains prominence symbolically too, as it is listed as the second objective of the Union in the new Article 3 of the Treaty on European Union – even before, for example, the internal market.

The ordinary legislative procedure (qualified majority voting in the Council and co-decision with the Parliament) will therefore be the rule in this entire policy area – i.e. for almost all civil justice, asylum, immigration and visa policies, as well as Justice and Police Cooperation in Criminal Matters (see below for the exceptions).

This could facilitate decision-making considerably in areas where unanimity previously prevailed – that is, Judicial and Police Cooperation in Criminal Matters, plus certain areas related to immigration, asylum issues and civil justice cooperation.

The end of the pillar structure means that the specific legal framework of Judicial and Police Cooperation in Criminal Matters will be abolished. Legislative instruments adopted in this area will finally have direct effect in the same way as the rest of EU law. This is in addition to strengthening the jurisdiction of the Court of Justice regarding preliminary rulings, which in almost all cases will no longer be subject to specific limitations under Police and Judicial Cooperation in Criminal Matters. The Commission will also have the power to launch infringement procedures against member states – something impossible to date in the third pillar. In parallel, the binding nature of the Charter for Fundamental Rights will strengthen the ECJ's capacity to ensure respect for fundamental rights in EU law – although its application will be restricted in the UK and Poland.

This comes together with an important broadening of the legal basis in some areas, especially for asylum matters, (legal and illegal) immigration issues, civil justice cooperation, freezing of assets, the approximation of general and procedural criminal law, training for judges, and the powers of Eurojust and Europol. The principle of mutual recognition of judicial decisions is also at last enshrined in the treaties.

On the policy-actors side, it is now clearly recognised that the European Council will define the AFSJ's "strategic guidelines". The Commission's right of initiative will be also somewhat strengthened compared to its powers under the current third-pillar rules – although member states will still have the right to make proposals if one-quarter of them agree to launch an initiative. National parliaments will be given a greater role in monitoring the application of the subsidiarity principle in relation to Justice and Police Cooperation in Criminal Matters and a Standing Committee on Internal Security (COSI) is planned to coordinate relevant EU actors.

Last but not least, the Lisbon Treaty allows for the creation of a European Public Prosecutor under the auspices of Eurojust, provided there is unanimous agreement in the Council and the European Parliament gives its assent. While this would be used to defend the Union's financial interests, it could be extended to serious crimes with a trans-border dimension (such as terrorism, drug- or human trafficking).

The importance of the development of the ordinary legislative procedure in judicial and police cooperation matters, as well as the significance of the broadening of the legal basis in these areas must be emphasised – they were even one of the main reasons for the modification of the French Constitution before the ratification in France, as

the Constitutional Council decided that they affect the “fundamental conditions for the exercise of [French] national sovereignty”.¹

In many respects, however, the price paid for the abolition of the third pillar has been higher than expected.

Unanimity will still be required in the Council in some areas – namely, certain provisions concerning passports and ID cards, family law with trans-border implications, operational police cooperation; the extension of EU competences to aspects of procedural and general criminal law not mentioned in the treaty, and the establishment of a European Public Prosecutor. The Treaty of Lisbon also clearly states that “national security” will remain the sole responsibility of each member state, which is far stronger wording than the Constitutional Treaty’s, and excludes *de jure* the action of the Union in this field.

The legal effect of instruments adopted before the entry into force of the Lisbon Treaty will also remain limited – in other words, only the new instruments adopted under Lisbon rules will entail a direct effect. Moreover, the ECJ’s jurisdiction (as regards preliminary rulings) and the Commission’s powers (as regards infringement procedures) will remain unchanged for a five-year transitional period in relation to all the instruments adopted before the Lisbon Treaty’s entry into force.

The decision-making process will also remain somewhat subject to exceptions. An “emergency brake” mechanism has been created in two specific areas: minimum rules in procedural criminal law and the definition of criminal offences. Similar procedures have been introduced for operational police cooperation and for establishing a European Public Prosecutor.

Broadly speaking, if the Council of Ministers cannot reach agreement in these areas, the legislative proposal can be referred to the European Council. If this happens, the ordinary legislative process is suspended and the Council has four months to find a consensus. If that fails, nine or more member states may go ahead without the rest simply by notifying this decision to the Parliament, Commission and Council.

Even more worrying, perhaps, are other signs of fragmentation. A protocol will restrict the application of the Charter of Fundamental Rights in the UK and Poland. The UK and Ireland will also have a full opt-out from all AFSJ measures (with the possibility of opting in on a case-by-case basis), including judicial and police cooperation in criminal matters, which was not the case previously.

1. Decision 2007-560 DC, 12 December 2007, available at <http://www.conseil-constitutionnel.fr/langues/anglais/a2007560dc.pdf>.

The British and Irish opt-out/opt-in on police and judicial cooperation in criminal matters measures will work, broadly speaking, in the same way as it has up until now for asylum, immigration and civil justice issues unrelated to the Schengen *acquis*.

The legal implementation of UK and Irish opt-outs remain unclear, however, as some new provisions of the opt-out/opt-in regime remain extremely vague and may well become subject to legal action before the Court of Justice (as was recently the case in the framework of the Schengen Protocol, with the regulation on Frontex, the EU border-management agency).² More generally, these opt-outs will naturally also have direct consequences for the effectiveness of judicial and police cooperation in the EU, but also for the protection of individuals in criminal matters and the fostering of mutual trust between judicial and police authorities.

FROM LISBON TO STOCKHOLM

The ratification of the Treaty of Lisbon would mean that the area of Freedom, Security and Justice enters uncharted territory: a new legal basis, new instruments, new decision-making process, and new actors. Paradoxically however, the scope and the complexity of these changes put the upcoming three presidencies and the European Commission in a difficult situation.

In the short run, two factors may reduce to some extent the room for manoeuvre for policy initiatives in the AFSJ. The first one is legal: most of the pending initiatives will formally lapse when the treaty enters into force if they have not been adopted by then, as their legal basis would change. The second one is political: until the 27 member states ratify the Lisbon Treaty, the European Commission will remain extremely cautious in putting forward new proposals – in the AFSJ as in other fields. This tendency will certainly be strengthened if Denmark is to hold a referendum on whether it should maintain its various opt-outs before the end of the year.

On the one hand, this makes the launch of negotiations on new potentially controversial legislative proposals under the Slovenian and the French Presidencies highly improbable: under the current decision-making rules, this would even be counterproductive. More likely, therefore, is that the French Presidency will focus on a high-level political declaration, which would then pave the way for the opening of more concrete negotiations – under the Czech and/or Swedish Presidency – following the decision-making rules of Lisbon.

On the other hand, this also means that all pending proposals must be adopted forthwith if they are not to lapse with the entry into force of the new Treaty – an eventuality which

2. ECJ, C-77/05, UK v. Council, 18 December 2007.

would open a Pandora's box, since the negotiations of these instruments would need to start from the beginning under a new legal basis. There is particular concern about legislative proposals which have already been approved by the Council, but whose formal adoption has been delayed until parliamentary reservations are lifted (for example, the Framework Decision on the European Evidence Warrant); those on which negotiations are already advanced (for example, the new Europol Decision); or those for which a quick agreement could reasonably be reached (for example, the proposal for a new Eurojust Decision).

The issue is a real matter of concern as nothing would be more unproductive than to open a new policy area by restarting from scratch negotiations that sometimes have already lasted more than five years.

The Commission is therefore pressing for the quick adoption of pending proposals, but it will certainly have problems without the clear support and cooperation of the JHA Council presidencies. This has already put JLS Commissioner Franco Frattini in a difficult situation vis-à-vis the Parliament, which is set to acquire more powers under the Lisbon Treaty and which is pushing for "revision clauses" to be added to all pending AFSJ proposals. The Commission has tried to allay MEPs' concerns by offering to implement an 'informal' co-decision procedure, even before the new Treaty enters into force.

If the Treaty is ratified by the end of 2008, some specific institutional provisions must be prepared in advance. One such issue relates to the future shape of COSI (the new Committee on Internal Security), as it remains to be decided who will sit on it and what competences it will have. The comparable experience of the Police Chiefs Task Force set up in 2000, which gathers high-level national police officers, has been disappointing so far, in terms of strategic and operational output. If the COSI proves able to resolve the current coordination problems of the different AFSJ policy actors, a thorough preparation of its set-up will be required before the Treaty enters into force.

A second issue deals with the internal organisation of EU institutions. On the Council side, the different Council working groups in Justice and Home Affairs have proved extraordinarily difficult to coordinate, even though their number has diminished recently. The implementation of the Lisbon Treaty offers the opportunity to continue streamlining the organisation of the Council secretariat and to improve coordination on horizontal issues (such as counter-terrorism or the external dimension of JHA). Given the probable disappearance of the third pillar, there will be a need to assess if the current working structure is still relevant. On the Parliament and Commission side, the additional workload resulting from the end of the pillar structure might even lead to a splitting and reorganisation of, respectively, DG Justice, Liberty and Security in the Commission, and the Committee on Civil Liberties, Justice and Home Affairs in the Parliament.

In many respects, the hardest task will fall to the first rotating presidency after the entry into force of the Treaty – potentially the Czech one – which will have to deal at the

same time with new legal basis, new opt-outs, new voting rules in the Council, increased involvement of the Parliament, and the need to launch new legislative proposals. If the new Lisbon regime is to be successful from the beginning, the transition will have to be well prepared. At the least, this requires a clear prioritisation of tasks between the presidencies.

This challenge is all the more difficult given that the year 2009 will be the occasion to adopt, under the Swedish Presidency, the new multiannual blueprint to replace the Hague Programme (often criticised for lacking the ambition of the 1999 Tampere Programme). The preparatory phase will almost certainly start under the French Presidency and be carried through by the Czech and Swedish Presidencies, which may also have to deal with the newly appointed President of the European Council and also the new Commission (autumn 2009).

In other words, the “new departure” of AFJS under Lisbon Treaty rules will be crucial. The opportunities offered by the Treaty, along with the new exceptions it has created, will give EU policy-makers no alternative but to agree on a new multiannual mandate to drive and shape the long-term priorities of the entire area, and help find an appropriate balance between strengthening security and protecting personal liberties. Without agreed ambitions, deadlines and targets, the risk is that the EU will no longer be able to see the wood for the trees. This will be a common responsibility of the French, Czech and Swedish Trio – and the real measure of their success.

CONCLUSION: HOW TO GET THERE

Some of the main changes enshrined in the Lisbon Treaty concern Justice and Home Affairs. The scope of these changes – mainstreaming of the legal framework, extension of the co-decision procedure, broadening of the legal basis – will be balanced out by new constraints: exceptions in the decision-making structure, limitations to the competencies of the Union, a transitional period and fragmentation of the AFSJ through extended opt-outs.

This gives the French, Czech, and Swedish Trio Presidency a particular role and responsibility in Justice and Home Affairs. More than in other policy fields, in fact, the Trio Presidency should:

Before 1 July 2008:

- Set-up a common action plan underlining the priorities and goals of the three presidencies in JHA, focusing on different scenarios (ratification of the Treaty by 1 January 2009 or later; no ratification), and clarifying the separation of tasks inside the trio.

Before the entry into force of the Treaty :

- Give absolute priority to the adoption of pending proposals which only require parliamentary reservations to be lifted and of those whose negotiations are close to an end.
- In the field of immigration, which is the main priority of the French Presidency in the AFSJ: ensure that French activism in the area be accepted and relayed by the Commission and the ensuing presidencies under Lisbon decision-making rules.

Before and after the entry into force of the Treaty:

- Prepare the implementation of the COSI and explore how the JHA Council working structures might be further improved.
- Ensure a smooth legal and political transition from the Amsterdam to the Lisbon regime.
- Prepare, during the three presidencies, the adoption of the new multi-annual Hague Programme, by deepening the work of the “Future Group on Home Affairs” set up during the German Presidency in 2007, and by extending its work to Justice and Civil Liberties issues.

THE NEW POLITICS OF EU INTERNAL SECURITY

Hugo Brady, Research Fellow, CER

Commentators often argue that effective cross-border co-operation on terrorism, crime and immigration issues is critical to re-juvenating public support for the EU. Such “Justice and Home Affairs” (JHA) issues are seen as an essential part of a “*Europe des résultats*” agenda and account for nearly 40 per cent of new laws emerging from Brussels. Yet this form of co-operation remains one of the least understood areas of EU activity. JHA co-operation can make the EU more popular, by showing voters that pan-European action can help make them safer. But it could also make the EU dangerously unpopular, if the necessary balance between being tough on crime and respect for fundamental rights is not carefully struck. Governments must be wary.

EU decision-making on policing co-operation, terrorism and illegal immigration will accelerate in the second half of 2008. Foreign and interior ministries will try to finalise a raft of sensitive decisions – ranging laws on the sharing of evidence across borders to the linking national police databases to a pan-European data protection regime for sharing criminal data – in the EU’s Justice and Home Affairs Council before December 2008.

The reason for such urgency is two-fold. First, EU legal experts warn that draft JHA laws currently under negotiation will automatically become void unless they enter into force before the Treaty of Lisbon. If ratified, the Treaty will move JHA legislation to a new legal basis which allows for a number of reforms decision-making and accountability in internal security co-operation. These include switching the voting requirement amongst member-states on decisions to do with terrorism, organised crime and illegal immigration to qualified majority voting and the involvement of the European Parliament for the first time as a co-legislator in such matters.

But these reforms will also overwrite the current legal basis provided for by the Treaty of Nice, under which all JHA legislation under discussion is currently being agreed. The decision-making process for internal security matters under Nice is often grindingly slow; some of the draft laws now nearing agreement have been painstakingly negotiated over a three-year period. Even when agreed, such decisions must then be transposed by 27 national parliaments before coming into force. This can often take two or more years. Hence the member states now face the prospect of drafting at least some JHA decisions from scratch and under new negotiation conditions.

The second reason for the member states’ sense of urgency is politics. Interior ministries look nervously to 2009 when the new arrangements should come into force and

Euro-parliamentarians will begin to use their new authority. This will be a momentous change, which will involve an element of culture shock for the ministries. Interior officials have been quietly agreeing and implementing internal security and judicial co-operation agreements under Council of Europe, UN and EU auspices for over 20 years. They have little experience of accommodating the concerns of outside parties. Now for the first time, nationally-elected parliamentarians will have a direct role in the negotiation of such decisions. Power, in terms of internal security decisions, is becoming more diffuse.

The Parliament's civil liberties and JHA (LIBE) committee already have powers over some border, immigration and visa issues, as they relate to the Schengen area. But, although the committee has been a strong critic of some EU decision-making on internal security co-operation, it has hitherto only had a right of consultation on such matters. For example, MEPs have been wary of the member states' eagerness to create databases and new information-sharing arrangements for terrorism and cross-border crime while demurring on the data protection legislation needed to ensure such information is not misused. The LIBE committee has made no secret of its intention to exercise its new powers to the full and to reverse a trend in JHA decision-making that it feels is wrongly skewed towards state security at the expense of civil liberties.

The Parliament already demonstrated the seriousness of its resolve in 2006 when it successfully asked the European Court of Justice to quash an EU-US agreement on the sharing of passenger data. The MEPs were only able to challenge the content of the PNR agreement because it had been erroneously agreed under single market rules. Nonetheless the action had important ramifications for EU-US efforts to protect transatlantic travel from future terrorist attacks. The member states fear that future co-operation on terrorism, crime and illegal immigration could be similarly imperilled if the LIBE committee pursues an agenda defined in outright opposition to their intention to co-operate more closely on such issues. Some form of rapprochement is essential if the EU's efforts to add value in these areas to be a success and not seen as adding to security problems.

THE STUFF OF THE NEW RAPPROACHMENT

The chief divergence on internal security issues between the Parliament on one hand, and the member states in the JHA Council, is fundamentally a problem of style, not substance. The language the member states use to discuss JHA initiatives is couched almost exclusively in terms of the need to protect citizens from cross-border threats. The Parliament's discourse focuses on the need to protect the citizen from the state. The new working relationship must involve a new *modus vivendi*, where MEPs learn the language of state security and where the member states become more convincing with their use of the language of liberty.

The MEPs need to recognise that their electorates mostly expect international cooperation to make them safer while looking mainly to their national government to safeguard

their civil liberties (the term civil liberty technically describes an exclusive relationship between the citizen and the state). The Parliament stands a better chance of achieving its goal of a more balanced JHA agenda, by convincing the member-states it is also a credible partner on internal security matters. One idea, symbolic but also highly resonant, would be for the Parliament to change the name of the LIBE committee simply to the “Committee for Justice, Liberty and Security”. Another useful step would be for the Parliament to significantly boost the resources it gives to the analysis of JHA issues. Most JHA proposals are so highly technical in nature that they can only be credibly influenced by those with a full mastery of the issues at hand. This need is made more urgent by the fact the role of the commercial and non-governmental sector is limited in the internal security area. In other areas, such lobbyists often act as an important secondary source of information for MEPs.

MEPs have shown themselves perfectly willing to accommodate member states’ desire for closer co-operation on internal security so long as the Parliament’s role is taken seriously. For example, the LIBE committee in 2005 was wooed successfully by the EU Presidency to ensure single market rules were tweaked to allow for the retention of tel-eoms data for the use in terrorism investigations. The member states have been wrongly dismissive of the Parliament’s civil liberties concerns in the past because they believe that, in practice, it is them who exercise all due caution to ensure that nothing done at EU level adversely affects the civil liberties of their own nationals. Officials will have to recognise, and take seriously, the MEPs’ legitimate right to scrutinise EU internal security cooperation with the protection of fundamental rights foremost in their minds.



PART IV

SUSTAINABLE DEVELOPMENT



PART IV – SUSTAINABLE DEVELOPMENT

ENERGY – CLIMATE CHANGE

The development of an integrated energy and climate change policy has been one of the key priorities for the EU for over two years and is likely to remain so for many years to come. Since the publication of the Green Book on Energy in 2006, the European Commission has been implementing its strategy on the internal energy market, energy resource security and energy efficiency while overseeing compliance with its international commitments on climate change and to the reduction of greenhouse gases.

The Commission's proactive approach reflects the consensus among the European Council and generally enjoys public support. However, the difficulty with which concrete proposals are being adopted and implemented should not be underestimated given the sectoral and national interests at stake.

Clearly, the EU policy will need more than a further two years to be effective. Consequently, the next Trio Presidency (French, Czech and Swedish) will have to identify the measures which can have the greatest impact in the short term (SWP).

All expert reports (including the Stern Report) are unanimous with regard to the inevitability of global warming and the scale of the direct and indirect costs of maintaining the status quo (*Bruegel*). As such, the reduction of greenhouse gas emissions remains the primary goal of Europe's approach. However, this is not simple in the context of new negotiations to replace the Kyoto Treaty due to start at the end of 2009.

The first task is the establishment of an emission permit exchange system for the EU, based on two independent institutions, one responsible for fixing the rules and distributing the permits, and the other for managing the market for these permits (*CER*). In this context, one uncomfortable question confronting EU Presidencies relates to the treatment and penalisation of high energy-consuming industries and power plants within Europe and the resulting risk that they will relocate outside the Union's frontiers.

There are two principal options: the free distribution of permits on a temporary basis, or the creation of specific rights to import energy-intensive products. The first option is less likely to evoke accusations of hindering international trade (SWP, *CER*, *Bruegel*). While this option is not a panacea for the climate issue, it deserves consideration by all of the upcoming EU Presidencies.

The second issue relates to energy efficiency and the use of renewable energies. Ambitious commitments must now be followed by concrete results, an objective that can only be achieved by making obligatory the targets which have already been set (SWP).

The upcoming EU Presidencies must prove their capacity for neutral arbitration between states in the allocation process, as national interests will be closely defended.

At the global level, the momentum flowing from the Bali Conference must be maintained, without the expectation of great advances in the short term. Europe's position at the head of the negotiating table is only tenable if the EU, through the adoption of a flexible attitude, can succeed in bringing with it a large number of countries, including the United States (*Bruegel*, *CER*). The trio of upcoming presidencies should adopt an approach of conciliation and incorporation, allowing for exceptions which reflect the specificities of different countries.

As far as energy security is concerned, particularly gas, solidarity among member states will receive a legal framework with the Treaty of Lisbon. Examination of previous crises shows that foreign affairs and trade policies play just as important a role in the managing risk as do internal policies concerning infrastructure, R&D policy and the regulation of the domestic market (*CEPS*). Despite national government resistance, the benefits derived from EU cooperation are clearly visible, and it is in this perspective that the Trio Presidency could have a real impact.

Until such time as Europe has developed a genuine and effective energy policy, its internal market must operate according to appropriate rules (*Bruegel*). Rather than getting drawn into heavy ideological discussions relating to property, the application of the existing rules should be subject to greater scrutiny (*SWP*, *CEPS*).

AGRICULTURE

The Communal Agricultural Policy (CAP), which has been the most integrated European policy initiative, the most significant in budgetary terms and a pillar of the community's development, has come to a fork in the road requiring careful negotiation by the upcoming Trio Presidency.

The review of the CAP in 2008 and 2009 and a re-examination of the European budget will determine what the CAP will look like after 2013 and how it will be financed. The CAP is operating in new territory: the Treaty of Lisbon will give the European Parliament decision-making powers on the agricultural budget and provide for the full participation in the negotiations by all 27 member states. Added to changing context has been the constant increase in demand for food and non-food related agriculture product and the resulting increase in world commodity prices to record levels.

These developments have allowed Europeans to review the level and nature of support for their agricultural markets (*Notre Europe*), but they have also required greater competitiveness to keep their place in the international market (*Europeum*). In future, more

must be produced in a more competitive way and from fewer inputs (water, earth, fertilizers and pesticides). Environmental constraints will no longer be marginal aspects of the CAP, but rather, they will play a structural role in its design (*Notre Europe*). In addition, the shift of attention towards the development of rural areas, started roughly a decade ago, appears to satisfy neither the CAP's supporters or its detractors, often for reasons relating to governance or territorial cohesion (*Notre Europe*). All these requirements and constraints – some of which are contradictory – will no doubt be used as bargaining chips in the context of budgetary discussions on EU policies, because the CAP's budget is already highly sought after (*Europeum*).

Such a programme should lead Europeans to ask themselves some fundamental questions (*Notre Europe*): What type of agriculture do we want? What food model and agricultural model do we wish to follow? What level of territorial balance should we aspire to and what role should agriculture play in it? The upcoming EU Presidencies, all of whom have different visions of agriculture and of agricultural policy, will need to overcome their national preferences (*Europeum*). It will be their duty to remind those at the negotiating table that the historic opportunity must not be missed (*Notre Europe*).

EUROPEAN ENERGY AND CLIMATE POLICY – THE TASK OF IMPLEMENTING AMBITIOUS TARGETS

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During the last two years, establishing an integrated energy and climate policy has been one of the central topics in the European debate. The Commission's Green Paper on energy, released in March 2006, drew up a wide range of proposals for a common approach, focusing on the challenges of sustainability, competitiveness and security of supply. Following the Commission's Energy Strategy Review of January 2007, the Spring European Council agreed on the main policy targets and adopted an ambitious Energy Action Plan.¹ Furthermore, some provisions regarding climate change and energy policy have been added to the Lisbon Treaty.

However, that was the easy part of the process. On the internal side there has been an ongoing stream of 12 new legislative procedures since the end of 2006.² For almost all of these dossiers we can expect tough and long-lasting negotiations among the member states and between Council and Parliament. In the external dimension of energy policy the EU finds it very difficult to stick to its principle of "speaking with one voice", particularly towards its main supplier Russia, where many member states prefer bilateral deals (most recently, the *South Stream* gas pipeline). In the field of international climate policy, the EU plays a leading role in the process of negotiating a new global treaty. The G8 summit at Heiligendamm and the UNFCCC conference in Bali were encouraging, but major breakthroughs are not to be expected before the end of 2009.

Strictly speaking, there is no integrated European energy and climate policy so far. Of course, there is an overall strategic framework and an extensive action plan, consisting of dozens of potential measures. Yet this is not much more than a conceptual framework. Currently, it is not foreseeable that the EU will be able to meet its own ambitious targets

1. See *Action Plan (2007–2009). Energy Policy For Europe (EPE)*, in: Presidency Conclusions of the Brussels European Council (8/9 March 2007), 7224/1/07 REV 1, Annex I.

2. In the months prior to the 2007 Spring European Council the Commission had released only two new legislative proposals, regarding the inclusion of aviation in the European emissions trading scheme (ETS) (COD/2006/304) and the reduction of greenhouse gases from fuels (COD/2007/019). In September 2007, they were followed by five proposals concerning the regulation of the European electricity and gas markets (COD/2007/195-199). Three months later, the Commission introduced new measures to reduce CO₂ emissions from cars (COD/2007/297). This was followed by four more legislative proposals in January 2008, dealing with new rules for the ETS from 2013, with the regulation of Carbon Capture and Storage (CCS) and with rules to share the burden of the overall European targets among the 27 member states, for mid-term CO₂ emissions reduction as well as for the minimum share of renewables (COD/2008/013-016). In 2008/09 we will see the start of some additional legislative procedures, probably in the areas of energy efficiency and energy solidarity.

(at the core: 20% reduction of greenhouse gas emissions, 20% share of renewables, 20% increase of energy efficiency – all by 2020) because the measures necessary to reach these goals are lacking actual implementation. Although it is not very likely that all the ongoing legislative procedures will be finished by mid-2009 (as the Commission suggests), the next two or three years will be crucial for the establishment of a common European energy and climate policy. This is not primarily a question of finalizing large numbers of dossiers or international treaty negotiations. It is much more about setting the right priorities, identifying key policy areas as well as the most important measures.

INTERNAL ENERGY MARKET: IN NEED OF TOUGHER REGULATION

Completing the internal market for both electricity and natural gas is one of the Commission's most important projects since the mid-1990s. The heated debate over the "third legislative package" of September 2007 is mainly focused on the question of "unbundling", the effective separation of the gas and electricity companies' production and distribution capacities. In the view of the Commission and member states like the UK and the Netherlands the most radical option of "ownership unbundling" would increase competition and clear the path for a greater amount of sustainability and supply security. On the other hand, Germany, France and Austria are leading a group of member states which are very sceptical of the Commission's approach. The Slovenian Presidency is seeking a political agreement in the Council by June 2008, which is ambitious. Even if a common position is arrived at by then, it will be a huge task to reach an agreement with the European Parliament during the French or Czech Presidency. A preferable way to secure the main goal of creating a competitive pan-European energy market would be to avoid heated discussions about the highly ideologized question of ownership structures. Instead, the debate should focus much more on the creation of effective energy-market regulation at the European level. The EU needs tougher rules for actors in the gas and electricity markets, but even more than that it needs tougher implementation of these rules.

CLIMATE POLICY: ENHANCING THE EU EMISSIONS TRADING SCHEME

In order to add momentum to the climate goals that were agreed by the Council in 2007, the Commission proposes a thorough revision of the EU emissions trading scheme (ETS). This includes that in the third phase starting in 2013, the total amount of emission rights will decrease by 1.74% each year and the allocation system will be conducted at the EU level, instead of the national level. Auctioning will become the major allocation tool for emission rights and should be the rule for about 60% of all allowances. In particular, the energy sector will have to buy 100% of emission rights starting in 2013, while energy-intensive sectors will probably have to do so by 2020. The treatment of the energy-intensive sectors under the ETS, however, is subject to further investigations by the Commission until 2010. Energy-intensive industries like cement, steel and aluminium

face a number of obstacles in dealing with the costs the emission certificates add to their production. They cannot pass on the costs to their customers as they face competition, especially from producers outside the ETS, and they have to pay for higher electricity costs which incorporate certificate costs; in contrast, electricity producers can currently pass on the costs from emission rights, due to weak competition. Moreover, most energy-intensive industries have already undergone investment in efficiency improvements. This all adds up to a special case, as the EU needs to be aware that these industries may close down within the EU and thus cause carbon-intensive production to move to countries without an ETS. The interim solution made in the proposal on the ETS is free allocation of emission rights for these sectors, which could become a long-term option in case of severe carbon leakage to third countries. The process which will identify the sectors for free allocation will fall under the Trio Presidencies and will demand a high degree of engagement by all three countries, as it is prone to strong lobbying from industries and member states for inclusion of specific sectors. As free allocation does not limit carbon leakage per se, the Commission and the Presidencies also need to investigate other options to deal with that issue.

Other measures, such as border adjustments on imported goods from countries without carbon pricing, were not mentioned in the ETS proposal. These measures, e.g. an import tariff on energy-intensive products or the obligation for importers to buy EU-ETS allowances, are under consideration by the United States, in particular. Given the international negotiations under the UNFCCC, the EU wants to revisit this option only in the light of the ongoing international negotiations. However, as the French President did not refrain from threatening trade partners, especially China, by announcing import tariffs in the case of insufficient climate protection within China, the issue will remain on the agenda until the UN Conference of Parties in Copenhagen 2009.

Given auctioning and a smaller quantity of emission rights, the economic consequences of this tougher framing will determine the debate around the treatment of the current proposal during the next few months. Sectors outside the ETS should reduce emissions by 10 per cent until 2020. To address these sectors – especially transportation, but also buildings, agriculture and forestry – a number of policy measures need to be created; as the debate around the emissions standard for cars has shown, conflicts are to be expected, due to differing industrial structures in individual member states.

The overall 20% target of the EU should be achieved by effort sharing, with shares contributed by each member state. Although there have been few reactions so far to the suggested effort sharing, in the coming months more attention will be paid to the numbers by individual member countries.

INTERNATIONAL CLIMATE NEGOTIATIONS: LIVING UP TO HIGH EXPECTATIONS

For a new international treaty on global climate policy, the UNFCCC set a very narrow timeframe at their meeting in Bali 2007.³ By the end of 2009 in Copenhagen, a draft shall be ready for approval by all 189 parties. The EU has taken over the role of pacemaker during 2007 and is expected to continue on this path for the coming months. The task for the Trio Presidency is delicate, as one major player at the international stage is not ready to make decisions. Until the United States has installed its new president, chances for a genuine agreement are very low. The EU will have to press forward with a draft nevertheless, focusing in its climate diplomacy on the emerging economies, China, India, and Russia, in order to bring these nations aboard. Given the dynamic nature of the Bali meeting, there seem to be major signals from China at least that a more constructive role in climate protection is realistic. To make use of these positive signals for a global climate treaty, they should be paramount for the EU Presidencies. The strategy of announcing trade measures in case of non-compliance with the EU idea of climate policy needs to be avoided, at any rate. This holds vis-à-vis all major emitters, not only China.

ENERGY EFFICIENCY: A CALL FOR BINDING TARGETS

Increasing energy efficiency is the most cost-effective way to reduce CO₂-emissions and to decrease import dependency for oil and gas. It is usually cheaper than extending the share of renewables, particularly in the new member states, where the energy efficiency of economies is comparatively low. But within the EU's effort to create a common energy policy, the sub-goal of achieving energy savings through increased efficiency is largely neglected. The main reason is that the respective targets are non-binding. Neither the target of the directive on energy end-use efficiency and energy services⁴ (9% savings between 2007 and 2016) nor the target announced in the European Council's Energy Action Plan 2007-2009 (20% overall savings until 2020) is legally enforceable. Correspondingly, the members states' commitment to energy efficiency is very low, and the number of infringement procedures relatively high. Progress in this area is not so much a question of new measures, be they minimum energy taxes, the coverage of new energy consumption sectors or elevated technical standards. It is about setting binding targets, an approach usually blocked by the Council. Therefore, the upcoming Trio Presidency should make a serious effort to take the initiative for binding efficiency targets. Both Commission and Parliament would support such a step.

3. See *Bali Action Plan*, http://unfccc.int/files/meetings/cop_13/application/pdf/cp_bali_action.pdf (19.03.2008).

4. See *Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005*.

ENERGY SOLIDARITY: A PREREQUISITE FOR ENERGY SECURITY

While discussing energy security, the EU usually talks about diversifying routes or suppliers, about Russia or Gazprom, and how “they” are a threat to European supply security. At the same time, the EU member states themselves are failing to “speak with one voice” in external energy relations, mainly because there are still 27 different energy mixes and import dependency structures. To overcome the dominance of national interests the EU not only needs the completion of the internal energy market, it also requires a system of energy solidarity. The Lisbon Treaty will bring about provisions to the primary law which refer explicitly to the principle of energy solidarity (Art. 122, 194 TFEU). In order to enable energy solidarity, the EU will not only have to develop rules for strategic stocks and crisis response mechanisms for fossil fuels, it must also support the construction of storage and network infrastructure. Such a project would drastically increase the supply security of all member states, notably with gas. In combination with a true internal market this would lead to a situation where the member states have virtually similar energy mixes and import dependencies – and therefore similar interests in the field of external energy policy. At the very moment the ratification of the Lisbon Treaty is secured, the Commission should set up an overall energy solidarity strategy, which in particular answers the crucial question of burden-sharing among member states. The role of the Trio Presidency would then be to get this strategy adopted by the European Council during 2009.

FINAL RECOMMENDATIONS

In the course of the next few years the long-term energy future of Europe will be shaped. It is therefore highly important to implement the targets and measures laid down in the European Council’s Energy Action Plan. The question of how the costs are distributed between member states and how the main objectives are to be implemented at national levels will require an extraordinary degree of commitment from the upcoming presidencies. In the task of successfully completing legislative procedures the presidencies will have to be neutral brokers of various interests, not only within the Council but also between Council and Parliament – since co-decision is the standard procedure in energy and climate policy. If a presidency has a strong national interest in a particular dossier – like France in the question of unbundling and network access – it will be wise to seek some additional support, either within the Trio Presidency or among other powerful and credible member states.

Without successful implementation of legislation, the EU’s “integrated energy and climate policy” is currently not much more than a conceptual framework. If the EU fails to deliver what the European Council promised in March 2007, the EU will lose a great deal of credibility, both among its own citizens and in the wider world.

20 20 BY 2020 – THE COMMISSION IS ON THE RIGHT TRACK

Simon Tilford, Chief Economist, CER

In recent years, the EU has been accused of introspection and an obsession with institutions. However, one area where this is definitely not the case is the environment, where the Commission, aided and abetted by a number of powerful member states, has been very active. In January 2008, the European Commission finally published its Green Energy Plan.¹ The package aims to reduce EU emissions of greenhouse gases by at least 20% by 2020 from 1990 levels, increase to 20% the share of renewable energies in energy consumption over this period and increase to 10% the proportion of vehicle fuels that are plant-based, as agreed by EU leaders in March 2007. The volume of emissions permits issued under the EU's emissions trading scheme (ETS) will be reduced year-on-year to allow for emissions covered by the ETS to be reduced by 21% from 2005 levels in 2020.

EMISSIONS TRADING

The EU is right to put emissions trading at the heart of the drive to reduce emissions of greenhouse gases. Emissions trading works by setting a limit on emissions of carbon dioxide and by distributing permits to emit the gas to polluters. If a firm emits more than its allowance it has to buy additional permits, while unused allowances can be sold. Companies, therefore, have a financial incentive to use energy more efficiently. Emissions trading is a more effective way of meeting a target than setting a carbon tax, as it is very difficult to determine the level at which the tax would need to be set in order to meet the target.

The first stage of the EU's emissions trading scheme, from 2005 to 2007, was associated with exceptionally low carbon prices because emissions caps were too generous.² When negotiating national caps for the second phase of the scheme (from 2008-2012) the Commission adopted a much tougher line with EU governments. Nevertheless, the combined caps represent only a 6.5% decline compared with 2005, and there is a risk that member states will be able to meet most – if not all – of the reductions in their emissions simply by investing in projects abroad. As a result, there is a risk that prices will be too low to stimulate investment in low carbon technologies. Moreover, only half of the member states intend to auction any permits and only one – Denmark – is expected to auction the maximum 10% allowed. As a result companies in sectors where there is little competition,

1. European Commission, "20 20 by 2020: Europe's climate change opportunity", January 2008.

2. Simon Tilford, "How to make emissions trading a success", Centre for European Reform, October, 2007.

such as power generation, will continue to earn windfall profits. Finally, the burden-sharing agreement provided excessively generous caps to poorer member states – a very poor model for what we need to achieve globally, which is to decouple economic growth in emerging markets from emissions.

The Commission's recommendations published in January address many, though not all of these concerns. The Commission proposes that:

- From 2013 the ETS will expand to cover almost half the EU economy. The volume of permits issued under the ETS should decline from 2.1 billion tonnes of carbon dioxide in 2005 to 1.7 billion in 2020.

- National caps should be replaced by an EU-wide cap that is consistent with the Union's overall target for emissions reductions. In order to iron out discrepancies across countries, permits will be set by sector, not by country.

- The third phase of the ETS should run for eight years until 2020, in order to provide security for investors.

- The coverage of the scheme should be extended to include the petrochemicals, ammonia and aluminium sectors as well as nitrogen oxide emissions from the production of various chemicals.

- Carbon capture and storage will also be covered. Any carbon dioxide that is captured and stored using CCS technology would not be counted as emitted.

- There should be greater harmonisation of monitoring, reporting and verification rules.

- The proportion of permits to be auctioned should be increased gradually to two-third from 2013. Power utilities should pay for all their permits from 2013.

- In the absence of an international agreement, internationally exposed energy-intensive industries, such as steel and cement production and aluminium smelting, would either receive permits for free or importers of such products would be required to buy permits.

In addition to setting out recommendations for reform of the ETS, the Commission puts forward proposals for how to distribute the Union's overall targets for emissions of carbon dioxide and use of renewables among the member states. The allocation will be determined by reference to the existing energy mixes, topography and GDP per capita (poorer member states will be given more time to increase their reliance on renewables). Industries covered by the ETS that are based in poorer member states will receive

relatively more permits under the ETS than those based in wealthier countries. Poorer members will not have to increase their dependence on renewable energy sources as rapidly as wealthier ones.

The Energy Green Paper was at the top of EU's March 2008 summit. Recommendations brought forward by the Commission aim to improve the functioning of the ETS considerably. For example, replacing national caps with an EU cap comprising pan-EU sectoral caps distributed to the individual member states would be a big step forward. From a strictly economic perspective, it does not matter whether companies in the same sectors are treated differently in different members of the EU; what matters is that across the EU as a whole there is a shortage of carbon permits and hence a market price for carbon. But this ignores the distorting effect that inconsistent treatment across member states can have on competition and hence on the EU's internal market. If companies in a particular industry in one member state face tighter caps than comparable companies in another member state, it will distort competition and undermine political support for the scheme. Forcing power utilities to pay for all their permits is also a necessity as they are largely shielded from international competition. Such a move would put an end to the windfall profits that power companies are making by passing on the costs of carbon permits that they receive for free. Centrica, a UK-based power utility, estimates that power companies will make €110bn between 2008 and 2012 in this way.

However, in a number of areas the recommendations fall short of what is needed. Most importantly, the institutional reforms do not go far enough. The EU's overall emissions targets, and the allocation of emissions permits under the trading scheme, should be decided on objective and scientific criteria – not by political horse-trading.

Similarly, independent institutions would have been better placed to resist pressures for excessively unequal burden-sharing. The Commission's recommended burden-sharing agreement is a very poor model for the challenge the world faces: to stabilise emissions in emerging economies at a low level by decoupling emissions from economic growth. Europe can hardly turn round to the Chinese and the Indians and demand that they take steps to curb their emissions, when the EU is largely exempting much wealthier states than China or India from having to take such action. Indeed, we risk repeating the mistakes made with the lesser developed members of the EU-15. For example, Spanish emissions of greenhouse gases rose by 47.9% between 1990 and 2004, closing much of the gap in per capita emissions between Spain and the more developed EU countries.

If the EU's ETS is to provide a model for the kinds of global institutions that will be needed to achieve a global carbon market, it needs to be depoliticised. The EU should establish two fully independent institutions to run and oversee the scheme. The first, a European Environmental Board, should distribute national emissions caps to the 27 member states, allocate emissions permits under the emissions trading scheme, carry out the auctioning of emission permits, and establish strict guidelines for the use of auction

revenues. The second institution should be a fully independent EU-wide regulatory body to oversee the carbon market, a European Carbon Market Authority. This would ensure that trading is transparent and that the market operates efficiently.

Finally, encouraging much greater use of biofuels is not the right way to curb emissions from road vehicles. With a few exceptions, biofuels are much more carbon-intensive than their advocates claim and the use of land for fuel rather than food production, threatens to exacerbate incipient inflation in agricultural prices. A more efficient way to curb vehicle emissions would be to impose steadily more stringent emissions targets. The Commission's proposed target of 130 grams per kilometre by 2012, with some allowances made for makers of bigger (and hence thirstier vehicles), should be agreed. A substantially more ambitious target can then be set for 2012.

THE EU CAN AFFORD TO CUT EMISSIONS

Can the EU afford to cut its emissions if others do not? Probably, the threat to the EU's overall competitiveness should not be exaggerated. The EU does all kinds of things that impose costs on certain industries. For example, EU countries impose extensive pollution standards and rigorous health and safety regulations, as well as comprehensive regulations governing working hours and quality standards. Some of these measures arguably boost the competitiveness of European companies by forcing them to apply the most up to date technologies and by encouraging them to make the most efficient use of labour. Policies aimed at curbing emissions of greenhouse gases should be seen in the same light.

Research by the OECD shows that the potential negative effects of carbon prices, even on energy intensive industries, are smaller than feared and that the overall effect on the economy is, on the whole, positive. The OECD argues that a more climate friendly economic framework can improve cost efficiency.³ Anything that encourages European businesses to adopt energy efficient technologies will stand them in good stead in a world of increasing energy scarcity, and strengthen the EU's energy security. Tight emissions caps and stringent energy efficiency standards would enable Europe to consolidate its existing lead in many energy efficient technologies, as well as help European companies to set global technical standards.

In any case, Europe is not going to be on its own. There are now real grounds for optimism that the US will establish a federal emissions trading scheme within the next three years, even if there is still doubt over the likelihood of the country participating in a successor to Kyoto. Although the Bush administration has largely ignored concerns over climate change, state-based trading initiatives, public opinion, the US Supreme Court

3. OECD, "The benefits of climate change policies", 2004.

and crucially, corporate America, are intensifying pressure for federal action to cut emissions of greenhouse gases. Congress is currently working on various such cap-and-trade bills and Barack Obama, Hillary Clinton and John McCain all support mandatory caps on emissions and a US emissions trading scheme. The outlines of a federal cap and trade scheme have been worked out by Congress and a US carbon market could emerge as early as 2009, though 2010 is more likely.

In the absence of federal action, individual states have taken the initiative. California has passed legislation to cut greenhouse gas emissions by 25% by 2020 (from 1990 levels), while New York plans cuts of 30% by 2030 (again from 1990 levels.) Both states intend to bring about these reductions through the adoption of emissions trading schemes similar to the EU ETS. The government of Florida, the fourth most populous US state, has announced plans to lower emissions to 2000 levels by 2017, and to just 20% of their 1990 level by 2050.

In a landmark judgement, the US Supreme Court ruled in April 2007 that the US Environmental Protection Agency (EPA) had violated the country's Clean Air Act by refusing to regulate emissions of greenhouse gases. The ruling, the response to a lawsuit filed by 12 states and 13 environmental groups, also called into question the legality of the EPA's refusal to impose controls on emissions from other sources. The Supreme Court is currently considering a similar lawsuit questioning the EPA's decision not to regulate the greenhouse emissions of power plants. Supreme Court decisions are no substitute for a legislative response to global warming, but will reinforce the arguments of those pushing for such a comprehensive solution.

Public opinion in the US has been slower to register concern about climate change than in most EU countries, which has made it easier for the Bush administration to drag its feet. But recently there has been a sea change in US public awareness of the scale of the problem. The percentage of Americans who say global warming is a serious problem has risen from 70% in 2004 to 83% today.⁴ Pressure from civil society groups, such as the influential evangelical churches, is also growing. These churches are increasingly concerned about the impact climate change will have on the world's poor, as well as on subsequent generations of Americans.

Contrary to fears that the EU would hand the US an unfair competitive advantage by unilaterally moving to put a price on carbon emissions, it is US companies that fear for their competitiveness, at least in future growth industries. A powerful coalition of US firms has joined forces with US environmental groups to form the United States Climate Action Group. The group comprises such household names as General Electric, DuPont, Caterpillar and Alcoa, together with non-governmental organisations including the Pew

4. Yale University office of public affairs, "Sea change in public attitudes toward global warming emerge; climate change seen as a challenge as terrorism", July 2007.

Center on Global Climate Change and the World Resources Institute. It is demanding mandatory cuts of emissions of greenhouse gases and the establishment of a federal cap and trade scheme.⁵ Aside from genuine concern about the impact of climate change, US businesses fear that the Bush administration's refusal to accept that the country cannot continue to emit carbon dioxide as in the past will disadvantage them in new growth markets, and threaten them with more costly adjustments in the future.

Opinion in the Senate has moved a long way since 1997 when senators voted overwhelming to reject any measures to cut emissions of greenhouse gases unless accompanied by big concessions on the part of developing countries. At the time of writing there are multiple climate change bills before Congress. Most contain similar emissions reduction strategies, relying on emissions regulations and emissions trading. The most ambitious bills introduced to date are the Jeffords-Boxer / Waxman and Kerry-Snowe bills, both of which require cuts in greenhouse gas emissions to just 20% of 1990 levels by 2050.⁶ The highest profile bill, however, is the Lieberman-Warner bill (titled America's Climate Security Act of 2007). This builds on a previous bill submitted by Senator Lieberman and one of the leading Republican contenders for the presidency, John McCain, but also incorporates elements of other bills. Lieberman-Warner calls for the lowering of greenhouse gases emissions by 60% from their current levels by 2050, a federal cap and trade scheme covering around 80% of the US economy, and the establishment of a number of independent institutions charged with managing the scheme and preventing price volatility.

Crucially, with control of both houses of Congress having fallen to the Democrats in November 2006, all the most powerful positions in the House of Representatives and the Senate are now controlled by supporters of climate change legislation. As a result, a serious climate change bill would attract the support of a majority of senators. Lieberman-Warner stands a strong chance of gaining approval. If the bill is passed by the Senate Environment Committee, it could be voted on by the Senate by late 2008. It is just about possible that such an act could be implemented in 2009.

Concerns about competitiveness concerns cannot be dismissed entirely, however. Even if the US does set ambitious emissions reductions targets, there is little chance of agreement of "global sectoral agreements" any time soon. In the absence of such global agreements, the EU will have to consider various measures to maintain a level playing field and prevent energy-intensive industries migrating to countries with less demanding environmental regulations. After all it would be counter productive to increase the energy costs for internationally exposed sectors such as steel and aluminium, if this led to EU producers relocating production to other continents rather than investing in reducing their emissions in the EU.⁷

5. United States Climate Action Group, 'A call for action', March 2007.

6. The Jeffords Boxer and Waxman bills are identical, the former before the House of Representatives and latter the Senate.

7. Carbon Trust, "The European Emissions trading scheme: implications for industrial competitiveness", 2004.

The Commission needs to clarify as soon as possible which industries will be granted concessions, rather than waiting, as it currently intends to, until 2010. Of the two proposals put forward by the Commission to prevent carbon leakage – handing out permits to these sectors for free and requiring importers to buy permits – the first would be preferable. This would not mean a free-ride for these industries. Allocating free permits to energy-intensive industries would not remove incentives for them to curb emissions so long as carbon prices are sufficiently strong to provide companies with incentives to reduce their emissions. Demanding that importers buy permits under the ETS or the imposition of border tax adjustments (BTAs)⁸ would be much more problematic. Although the objective would be to ‘level the playing field’ it would prompt accusations of protectionism from developing countries. They would no doubt argue that a proportion of their emissions reflect the decision of Western companies to shift production offshore, and that it would be unfair to punish them for this.

CONCLUSION

The EU’s environmental targets are as ambitious as is feasible given political constraints. They will not create institutions that could serve as models for the kinds of global environmental institutions that are required. However, the setting of legally binding targets and the growing prospect of US actions means that the industrialised economies could soon have policies in place that will deliver substantive cuts in emissions. They will then be in a far strong position to demand action from fast developing economies such as China and India.

8. BTAs would compensate EU producers for the higher costs they incur as a result of carbon pricing and penalise companies importing goods into the EU from countries that refuse to put a price on carbon emissions.

REDUCING THE CLIMATE CHANGE BILL

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As stated in the Stern report, “the benefits of strong and early action far outweigh the economic costs of not acting” against climate change. The EU has taken the world lead in developing policies to fight against climate change. Such policies must not only be effective in achieving their targets but also cost-effective in this task. The design of internal EU and international climate change policies and the extent to which other countries will join the EU in implementing climate policies determine the magnitude and the distribution of the costs of fighting climate change.

Early, effective and cost-efficient policies are crucial to achieving the objective of keeping future temperature changes below two degrees celsius. This implies the concentration of efforts in two areas:

- Reducing greenhouse gas (GHG) emissions should be the main focus of climate change policies. A functioning carbon market should be the central element of such policies. Any other complementary instrument such as the use of renewables or the setting of standards should be designed in order to contribute efficiently to the main goal.

- A broad post-Kyoto international agreement involving as many countries as possible should be sought. Its guiding principle should be common but differentiated responsibility.

The European Commission recently proposed a new regulatory package to reduce carbon emissions by 20 percent, increase the share of renewables to 20 percent of the energy consumed and achieve a 10 percent share of biofuels in total transport fuel consumption.

The European Commission proposal substantially improves the design of the EU Emissions Trading Scheme (ETS) and increases the sectoral scope of carbon mitigation policies. However, the proposal fails to establish priorities between the objective of emissions reduction and the target for renewables (and biofuels). This implies that reaching this renewables (and biofuels) target might become, at some point, an obstacle rather than an instrument to reduce GHG emissions. A clear prioritisation of targets and measures is necessary in order to make the main target - ie a reduction of GHG emissions - attainable.

A priority item on the EU agenda is to come up with the design of a post-Kyoto agreement that manages to attract as many countries as possible and is, in particular, sensitive

to developing countries' demands. The feasibility and success of EU climate policies rely heavily on the conclusion of such an agreement.

The short-term economic impact of climate policies and the incentives to free-ride might prevent governments from adopting first-best policies. This reduces the incentives of other governments to implement stricter climate policies in order to minimise the competitive disadvantage to their industry. There are several economic dimensions affected by climate change policies.

CLIMATE POLICIES HAVE AN ECONOMIC IMPACT

Climate change policies affect economic growth. The Stern review¹ estimates that the impact of stabilising atmospheric emissions at 500-550 ppm would represent about 1 percent of GDP by 2050. The Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report estimates that the undiscounted cost of stabilising CO₂ emissions at 450 ppm (which is roughly equivalent to the EU target of keeping the temperature rise below two degrees) would be around 0.6 percent of GDP in 2030.² Such figures are based on the assumption that countries adopt the appropriate measures that allow them to reduce carbon emissions at the lowest cost and that they do not have incentives to free-ride. But the cost could be twice as much if policy inefficiencies and market imperfections are taken into account.³ The cost of climate change policies does not only depend on the objectives of such policies but also on the policies themselves.

Climate change policies also affect the terms of trade. Carbon pricing schemes (such as the EU ETS) have an impact on competitiveness. The asymmetric implementation of carbon-pricing schemes places at a disadvantage firms (especially in carbon-intensive industries such as cement, steel or aluminium) located in countries which price carbon, and might give them an incentive to relocate to countries with laxer environmental regulation. But this is not the only concern. Even where action is taken on a more uniform collective basis, concern remains that different countries will be affected differently by carbon-pricing policies, owing to differences in competitive advantage and product specialisation.⁴

Climate change policies can have an inflationary effect. Electricity producers need emissions permits to generate electricity. Whether these are given to them for free or are auctioned, the companies will incorporate them as a cost and are likely to pass them on

1. Stern, N., (2006). *Stern Review Report on the Economics of Climate Change*. Cambridge: Cambridge University Press.
2. IPCC, (2007). "Climate Change 2007 - Mitigation of Climate Change Working Group III contribution to the Fourth Assessment Report of the IPCC".
3. Bosetti, V., C. Carraro, E. Massetti and M. Tavoni, (2007). "Optimal Energy Investment and R&D Strategies to Stabilise Greenhouse Gas Atmospheric Concentrations", CEPR Discussion Paper 6549.
4. See Delgado, J., (2007). "Why Europe is not carbon competitive". *Bruegel Policy Brief*. www.bruegel.org. Issue 2007/05.

to electricity consumers. Also, most renewable resources currently require a premium on the electricity price in order to be competitive. Setting a target for energy production from renewable sources increases the cost of generating electricity. According to the European Commission the impact on energy prices of the climate package proposed last January would be between 4.5 and 6.8 percent depending on the scenario.⁵ Finally, the growing use of cereals, sugar, oilseed and vegetable oils to produce ethanol and biodiesel and the fact that such production is heavily subsidised might introduce major distortions in the pricing of food.

Climate change policies have an impact on public accounts. Climate policies can be a source of public revenue via taxes but also a source of expenditure via support to climate change research, investment in R&D or tax breaks. Governments' fiscal imbalances can be affected by climate policies if climate related revenues are not sufficient to finance climate spending. A carbon market may not be sufficient to meet the climate targets and additional measures requiring public funds might be needed.

COST-EFFICIENT CLIMATE POLICIES CAN MINIMISE THE ECONOMIC IMPACT OF FIGHTING CLIMATE CHANGE

With the aim of reducing the economic impact of climate change policies, the EU must combine an effective and cost-efficient internal policy agenda focused on the reduction of GHG emissions with the completion of a broad, global post-Kyoto agreement.

As far as EU climate policies are concerned, our recommendations are the following:

- Reducing GHG emissions should be the focus of EU climate policies. A cap-and-trade scheme such as the ETS is an efficient way of curtailing emissions at the minimum cost. However, since the implementation of a cap-and-trade scheme might not be feasible to all sectors (given the heavy monitoring requirements and the complex implementation), it could be supplemented by other tax instruments in sectors not covered by the ETS.

- Guaranteeing effectiveness and cost efficiency should be the driving force of EU climate change policies. Flexible market-based instruments allow the global cost of meeting the targets to be minimised and are easily adaptable to changing scenarios.

- The coverage of carbon pricing schemes (ie carbon markets and carbon taxes) should be as wide as possible. This not only increases the effectiveness of carbon pricing schemes (by covering a larger share of emissions) but also gives more flexibility in cutting

5. European Commission, (2008). "Impact Assessment on the Package of Implementation Measures for the EU's Objectives on Climate Change and Renewable Energy for 2020". Commission Staff Working Document SEC(2008) 85/3.

emissions across sectors at the lowest cost, and reduces the competitive distortions across countries and sectors.

■ Allocation of emission permits should be consistent within sectors across countries irrespective of firms' location. If the allocation of free permits is decided at national level, the outcome is likely to distort production and investment decisions: carbon-intensive industries might adopt such decisions based on the amount of emission permits they are allocated free at each location. Auctioning should be the preferred mechanism to allocate emission permits in order to guarantee efficient allocation. Auctioning also allows collection of additional revenues which can be used to finance other climate change policies.

■ Other policies such as obligations related to renewables and biofuels, regulation of transport, etc. should be instrumental in achieving the main target of cutting GHG emissions and should not constitute an obstacle to meeting this main target. Better integration of climate change objectives and other relevant policy areas such as energy, transport, building or agriculture is desirable. In doing this, the cost-benefit of any complementary measure should be carefully analysed to make sure that it contributes efficiently to the main target.⁶

■ Objectives have to be long-term. Intermediate targets might be necessary in order to facilitate monitoring and implementation of policies but should be flexible enough not to constrain the drive for longer-term goals.

■ The degree of uncertainty surrounding the process both on the climate side and on the technology side entails flexible policy design that does not rely on a single set of assumptions and is adaptable to a changing environment.

■ Price intervention should be avoided since prices provide the appropriate signal for investment and consumer behaviour. High prices of carbon intensive energy sources such as oil and coal create incentives to use renewables. Windfall profits derived from the pass-through of carbon prices on to electricity prices can be "recovered" via auctioning of emission permits. The impact on prices can be relaxed through complementary policies such as further energy liberalisation, trade and agricultural policy (in the case of biofuels).

■ Governments should carefully evaluate the public revenues and expenditure originating from climate policies in order to guarantee a balanced budget. National instruments should not interfere with carbon markets.

6. See McKinsey, (2007). "A Cost Curve for Greenhouse Cost Reduction", The McKinsey Quarterly, for a cost-based ranking of alternatives to reduce carbon emissions.

An international global climate agreement also has to be achieved, respecting some basic principles:

■ The involvement of a large number of countries in a global climate agreement is necessary not only to reduce the total costs of reaching any global (or local) target but also because developing countries are set to be major emitters in the near future. It should therefore be a priority for industrialised countries, and especially for the EU, to establish the appropriate conditions for involving as many countries as possible under the principle of common but differentiated responsibility. Such conditions might involve gradual commitments by developing countries starting with relatively limited emissions cuts.

■ A global market for carbon replicating the European ETS but on a larger scale would not only reduce the total costs of reducing GHG emissions, but would also help to level the playing field between countries, thus addressing concerns about the potential differential impact on competitiveness of climate change policies. Other accompanying measures and financial transfers which constitute relatively cheap ways of cutting emissions, such as preventing deforestation, might also be desirable.

■ The use of the project-based market mechanisms established under the Kyoto Protocol – the Clean Development Mechanism and the Joint Implementation Projects – should be promoted in order to facilitate the involvement of developing countries and to reduce the cost of cutting emissions. However, the conditions under which such projects qualify should be clearly established in order to make sure they are effective in reducing GHG emissions.

■ The asymmetric application of climate policies can place firms located in countries with stricter regulation at a competitive disadvantage. A comprehensive global agreement would remove such asymmetries. However, in the absence of such an agreement, the requirement for imports to participate in the carbon market is preferable to exclude most affected sectors from the carbon market (which would reduce the effectiveness of the carbon market) or to generous grandfathering of emission allowances in such sectors (which would not provide incentives to such sectors to reduce their emissions).

USING MARKETS TO SECURE EUROPEAN NATURAL GAS SUPPLIES

Arno Behrens, Research Fellow, CEPS

Rising prices, decreasing production within Europe, increasing import dependency together with increasing demand of emerging economies; regional concentration of major gas fields and the alleged use of gas as a “political weapon”, rising emissions of greenhouse gases and their adverse effect on the global climate. These are just some of the threats associated with European natural gas supplies. The EU has reacted to global energy challenges by adopting an integrated climate and energy policy at the European Council in March 2007. The implementation of this policy is taking shape with the recent proposals put forward by the European Commission on 23 January 2008. Regarding natural gas, the Commission tabled its third legislative package on EU electricity and gas markets on 19 September 2007. This package aims to complete the EU’s internal market for electricity and gas. The underlying conviction is that a large internal market, served by a wide interconnected network, and receiving supplies from many different exporters, will be more secure and stable than the current market structure of largely disaggregated national and regional markets. However, with liberalising European energy markets, supply security ceases to be a purely public domain and will – at least to some extent – need to be achieved by market-compatible approaches.

EU ENERGY SUPPLY RISKS

Increasing the security of supply is essentially a strategy to reduce or hedge against risks associated with energy production, transport and use. Aimed at guaranteeing the functioning of an economy, the concept of “security of supply” commonly includes concerns regarding the (uninterrupted) availability of adequate supplies at an affordable price level, while taking environmental sustainability criteria into account. A more narrow definition of energy security focuses solely on the availability of energy to those who are willing to pay the market price. If markets are allowed to function properly, high prices may be considered an indispensable tool for energy to remain available in tight markets. Similarly, they have been shown to help decrease energy consumption in industrial countries. The economic impacts of rising energy prices, however, may be negative on three fronts: increasing energy bills leading to reduced revenue, rises in inflation and interest rates, and an increase in the import bill. In terms of natural gas, rising prices have also had a negative effect on investments in new gas-fired plants, adding to long-term security of supply risks.

The EU faces political, economic, technical and environmental risks to energy supply. *Political risks* concern potential government decisions to curb or suspend deliveries because of deliberate policies, war or civil strife, or as a result of failed regulation. Examples include political instability and regional conflicts in major supplier countries and politically motivated output reductions or import embargos by export or transit countries (e.g. gas cut-offs). *Economic risks* mainly cover imbalances between demand and supply, stemming from delays in investments in strategic projects or insufficient contracting. *Technical risks* include systems failure owing to weather, lack of capital investment or generally poor conditions of the energy system. *Environmental risks* describe the potential damage from accidents such as pipeline bursts. They also include other forms of pollution, the effects of which are less tangible or predictable (e.g. greenhouse gas emissions).

A distinction is also made between short-term and long-term risks. Short-term risks are generally associated with supply shortages because of accidents, strikes, sabotage, extreme weather conditions or technical failures. Long-term security concerns the adequacy of supply, the infrastructure for delivering this supply to markets and a framework to provide strategic security against major risks (such as non-delivery for political, economic, force majeure or other reasons).

There are many different risks to the security of supply, of which dependence the imports of politically unstable or unpredictable countries is just one. The European Commission recently noted that the risk of supply failure associated with increasing dependency on imported hydrocarbons is growing. However, independence from imports is no option and would be no guarantee for security: most energy supply disruptions experienced in the EU in recent decades have had domestic causes. The 2006 Russia-Ukraine gas standoff, on the other hand, showed that Europe's increasing import dependence on producer and transit countries is an issue to be taken seriously.

THE CASE OF NATURAL GAS

Unrelated to the expected increase of the market for liquefied natural gas (LNG), the European Union will become increasingly dependent on gas pipe supplies coming from very few countries. Over 80% of the global natural gas reserves of 181.5 trillion m³ are located at a distance from Europe that allows for pipeline transport; Europe lacks the infrastructure to tap resources in the Middle East, the region with the largest proved reserves (over 40% of global reserves). Over 80% of Europe's natural gas imports come from just three countries, where governments tightly control the gas market. Fears of potential "gas cartels" or of energy being used as a political weapon do thus not seem completely unfounded. Similarly, there is a risk of a lack of investment in exploration, production and transportation, despite reserves being abundantly available in areas surrounding Europe. If gas is unable to take a larger share in power generation, it will not be able to live up to expectations that it will be a 'bridge' to a low carbon economy; it may even become a

sunset industry. In addition, the future carbon price will have an impact on the future of the gas markets.

A competitive, integrated EU gas market is advocated by the European Commission as being intrinsically more secure than the individual member states' markets. Such reasoning is based primarily on scale: a larger, well interconnected market receiving supplies from a variety of exporters is expected to be the best insurance against the risks indicated above. However, numerous conditions need to be fulfilled for this conjecture to hold true. Among the most important are functioning markets, established interconnections, diversification and redundancy of import capacity (especially towards Africa and the Middle East – also in terms of LNG), and more generally the necessary regulatory or contractual arrangements. A critical factor is transportation capacity to Europe, as it seems likely that projected infrastructure will not be able to meet expected demand. This requires access to gas reserves, opening production to international investments and focusing on the stability of transit countries.

HOW MUCH SECURITY OF SUPPLY?¹

While free markets will ensure efficient allocations of gas in situations of emergency through higher prices, there is a case for securing a minimum level of guaranteed supplies, especially when energy needs to be supplied at “reasonable” prices. Not all gas consumers have the same need for secure and uninterrupted supply. Gas in households and small commercial establishments is primarily used for heating and cooking. In situations of emergency, such uses can be curbed to some degree. It is therefore rational to set the guaranteed level of supplies at an appropriate percentage of “standard” consumption. In liberal markets, customers have a choice of whether to assume responsibility for security of supply themselves or to allow the supply company to bear the responsibility and subsequently to pay a risk premium through higher energy prices. The former is typically done by large industrial users, for which (short-term) security might not be an issue, given that they can switch fuels.

A differentiation among priority (i.e. non-interruptible) and interruptible customers should thus be made. Suppliers should be required to protect their priority customers. As long as their exposure to the possible negative event (percentage shortfall in supplies) is lower than the share of priority over total customers, they may not need to worry about security of supplies. This idea suggests that the security of supply standard could be defined as the guarantee that all the gas volumes demanded by non-interruptible (firm or protected) customers are available at a “reasonable” price. Such a standard is best established at the EU level. Interruptible customers need to be offered lower prices since they

1. See also CEPS/ECN/FEEM (2004), *Market-based Options for Security of Energy Supply*, INDES Working Paper No. 1, Brussels.

do not require protection in the event of a crisis (they may opt to withdraw from the market or maintain their own alternative fuel capacity).

In an interconnected, competitive market, well-diversified companies enjoying a small protected customer base could be permitted to sell emergency supply rights to other companies that possess less diversified supplies or customer bases (or both), or that are more oriented towards priority customers.

An agency should be in charge of general oversight of the security of the system, including the surveillance of interconnection capacity and ensuring a supplier of last resort. The agency could be organised either as a EU or member state body, such as an EU agency or a system of national agencies, possibly attached to national regulators. The agency could be funded partly by taxpayers and partly by a levy on emergency supply rights for importers to meet their minimum-security obligations. A company's gas procurement portfolio and the composition of its customer base should determine storage obligations.

Costs could be socialised to some extent because diversification of sources, redundancy of import infrastructure or a provider of last resort will benefit all market participants. Who will be called upon to finance this activity is an open question that will need to be resolved politically. Cost implications for the power sector should be included in estimations.

LIQUEFIED NATURAL GAS (LNG)

A second element of security of gas supplies is LNG. Supply flexibility, which is a function of diversification, the mode of transmission – pipeline versus LNG – and redundancy in import infrastructure, is very important both for security of supply and for competition. However, it is also very expensive. The development of LNG markets is expected to ease some concerns about security of supply, especially in terms of pipeline diplomacy, because of its advantages of flexibility and diversification. Currently, about 11% of Europe's gas imports are in the form of LNG. However, some drawbacks remain. Besides the fact that LNG technology is sensible to physical threats, exporters have not kept up with increasing facilities in importing countries, leading to some re-gasification terminals standing idle. In addition, the EU is expected to face fierce competition from other importing countries, such as the US.

Sustained uncertainty about future gas prices may have an adverse impact on raising appropriate financing. The good news is that technological progress is expected to reduce both capital investment and unit transport costs, thereby opening up new supply opportunities for pipelines and LNG.

This calls for a well calibrated policy regarding the regulations applied to construction and access to infrastructure facilities (LNG tankers, terminals and pipelines), to avoid

hampering their development. A systematic and formalised market surveillance mechanism will be crucial in this respect.

BEYOND THE MARKET

The above focus on market-oriented policy options does not imply that markets will be able to secure future energy supplies all by themselves. Especially for long-term policy objectives, government action will be required. Examples include R&D or the development of new and breakthrough technologies to cope with climate change. On the demand side, the promotion of a strong and ambitious energy saving and energy efficiency policy in the EU and ideally across the OECD or even globally could reduce dependence on politically unstable or unreliable countries. This includes network upgrades and the installation of smart metering systems to make customers aware of their consumption through real-time measurements. A particular objective should be to reflect on how to make best use of natural gas. On the supply side, focus should be laid on supporting near-zero-carbon technologies such as renewables and carbon capture and storage (CCS).

For natural gas, the objective should be to improve the functioning of the internal gas market, notably by increasing liquidity both for piped gas and LNG. Liquidity of the market presupposes that it remains attractive for producers to deliver sufficient volumes to the EU and that the right incentives for infrastructure investment are in place. In addition, better coordination or harmonisation of national regulations on gas supply and on gas stocks should be considered to cope with possible supply disruptions.

Equally important is the coherence between EU and member-state actions. Given the limited EU competencies in energy policy, member states enjoy considerable discretion in the domain. However, national responses to security of supply are partly incompatible with the security-of-supply interests of other member states or the EU as a whole. The EU should thus develop a “European concept for security of supply”, including tools (e.g. energy policy indicators) to ensure policy coherence at the EU and member state level.²

There is also a need to better integrate energy policy and foreign policy. This is best done by institutionalising dialogues with producer countries by using available existing tools, such as the European Neighbourhood Policy or trade and development policies. By using all available instruments and fora, the EU can effectively support companies in gaining access to reserves.

The above measures constitute the existing “EU consensus” of “no-regret” options to address EU energy policy objectives. Too often, however, such no-regret options fail due to

2. See also CEPS (2008), *Energy Policy for Europe: Identifying the European Added-Value*, Report of a CEPS Task Force, CEPS, Brussels.

policy inertia, expediency or simply lack of interest. To avoid such failure in the future, the European Commission could be given special responsibility for tracking member states' and EU progress towards the implementation of these measures.

CAP HEALTH CHECK – PREVENTION OR REVISION NEEDED?

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The Common Agricultural Policy (CAP) remains a much discussed topic of the European integration process, in particular due to the extent of the funding for agriculture in the EU budget. In 2006, this amounted to 36 per cent of total EU expenditures, or approximately 44 billion euro. The CAP came into force in 1958 and was supposed to be one of the fundamental pillars of European integration. However, opinions about it have differed since its beginning.

Different opinions have been caused by the different backgrounds of the respective countries (agriculture or industry oriented). The issue was to be resolved by the so called compensation principle, based on priority consumption of more expensive European products in exchange for free import of industrial products. But this basic principle of the CAP instead caused problems. As the prices in the European Community were growing, real compensation decreased. The industrial countries found themselves in an unfavourable position. The Stresa conference laid down another principle of so called financial solidarity – meaning distribution of CAP costs among all member states. This led to the establishment of the European Agricultural Guidance and Guarantee Fund (EAGGF), as the main financial instrument of the CAP. Both of these fundamental principles have had a direct impact on the increase in member states expenditures, which has been a major subject of controversy for the CAP. The CAP has become one of the most expensive compromises of the Community, and still faces much criticism.

Many member states hope that the planned “health check” of the CAP will be influenced by the budget revision which is due to be on the agenda at the same time and which should lead to decreased CAP allocation. So what is the current state of the CAP? What can we expect from the health check and why is it actually necessary? What impact will the budget revision have? How can the French, Czech and Swedish Presidencies influence the health check and what is the position of the Czech Republic? What will be the future orientation of the CAP?

THE CAP: IN EFFECT FOR HALF A CENTURY

It has now been fifty years since the CAP acquired Community character. Responsibility for negotiations in the field of agriculture has been transferred from the member states to the EU institutions, which has definitively been an advantage. States are rid of the ungrateful role of negotiator between the interests of farmers and the public. On the other hand, interest groups have had too strong an influence on the CAP.

The health check is aimed at evaluating the current state of the CAP, which has gone through a number of unavoidable changes during its history. Beside the basic policy goals (food self-sufficiency, stabilisation of farmers' income, stabilisation of markets, and raised rural living standards) there have been new ones – such as environmental protection, animal welfare, veterinary measures, food security, support for stagnant regions etc. It was already clear at the end of the 1960's that the CAP had many negative effects and the defined goals were not sufficient. Food shortages were replaced by overproduction, the financial burden was growing, while at the same time Europe's competitiveness was in decline. The first attempt to reform it (1968 – Mansholt Plan) was too radical and was therefore rejected. The McSharry reform, the first official CAP reform, was introduced as late as in 1992; it was only a partial success.

Agenda 2000 was intended to have a more significant impact on the reform of the CAP. Such reform was inevitable due to the situation in world agricultural markets, which were saturated – at the same time that product prices were declining and competition to the EU from the US and members of the Cairns Group was increasing. The GATT negotiations have also been a catalyst for reforms. The basic aim of reform was to make agriculture sustainable while respecting standards of environmental protection. Terms such as “multifunctional agriculture” were pronounced for the first time. The trend was to further decrease the intervention prices and compensation using direct payments. Unfortunately, Agenda 2000's grand goals have in general not been fulfilled. The EU still struggled with overproduction, direct payments were not transparent, subsidies were not in relation to environment protection and – last but not least – the CAP still represented a significant portion of EU expenditures.

Agenda 2006, the third crucial reform of CAP, was not originally planned; only a simple evaluation of Agenda 2000 was intended. The reform which was eventually introduced contained many new measures such as decoupling, cross-compliance and modulation; it also introduced the single farm payments. Member states refused total decoupling: they were afraid this could lead to weakening of production. A compromise was found: a portion of payments was made fully proportional to production; another portion was linked to production in a restricted way; and the rest was made up of decoupled direct payments. All of these measures were of course accompanied by different conditions for old and new member states. Even after this reform, the original goals of CAP are still the same; what differs is the method chosen to attain them.

WHAT IS THE CAP HEALTH CHECK?

The CAP health check should not be perceived as another important CAP reform but rather as a kind of control and evaluation exercise, following the last reform in 2003 – hence the term “check-up” used by the Commissioner. A major EU enlargement has taken place since the last reform. It will be necessary to evaluate the impact of enlargement, to

adapt the CAP's functioning to these changes and to incorporate the new countries into the programme. CAP revision is first and foremost a question of discussion. In this case discussion was kicked off by a European Commission proposal last year. After six months of discussion in which all member states should participate, the Commission is due to come up with legislative proposals this spring. Its idea is that ministers approve these proposals by the end of 2008 in order that the changes can come into force next year. It remains to be seen what will come of this plan in practice.

One of the fundamental points of the Commission proposal is to make the direct payment system more effective and easier by increasing the extent of decoupled payments in countries which have decided to keep the coupling of support and production. The Commission would also like to decrease payments to the biggest agriculture companies, which take advantage of economies of scale. However, these changes will depend on various criteria such as number of owners of the company or the number of employees. With regard to this point, the Commission is planning an increase of the minimal farm area for one farmer; currently the figure is 0.3 ha. Such a change would mainly affect the newly-joined Romania. The proposals also include an adjustment in market instruments, to make the system better adapted to a situation of many member states. Furthermore, there is a need to react to new facts – to develop positions on the issues of climate change, bio-fuels, water management, biodiversity protection etc. In this regard the Commission suggests reviewing the norms which must be met by farmers, abolishing certain unimportant rules, and coming up with new ones which should meet the new challenges. Financial investments are necessary: the Commission wants to achieve this by increasing the transfer of direct payments to the budget of the countryside. Currently, 5 per cent of direct payments is transferred to the rural development; according to the Commission the figure could rise to 13 per cent in 2013.

What impact can the budget revision have on the health check? It is not possible to deal with these two revisions separately; to a certain extent they will influence each other. However, it is important to stress that the budget revision concerns the period after 2013 whereas the CAP health check will deal with the near-term period of 2009-2013.

TRIO PRESIDENCIES – THE POSITIONS OF FRANCE, THE CZECH REPUBLIC AND SWEDEN

The Czech Republic considers reform of CAP as inevitable, particularly in connection to the budget revision. According to the Czech Republic the results of the CAP reform will have a fundamental impact on the future structure of the EU budget. If expenditures on agriculture decrease, it will be possible to use these finances for education, research and innovation. If the decrease does not take place, the EU cannot be competitive in the long run. That is why the Czech Republic prefers to connect the discussions on these two issues. Whether the Czech Republic will be active in the issues connected to the budget

revision will depend on when the Commission publishes the white paper – in which it should evaluate the current state of affairs and lay out a first set of proposals regarding all EU income and spending. The Czech Republic advocates a reduction in direct payments and an increase in rural development spending – but not in connection to the farm sizes. In addition, the Czech Republic believes it is necessary to ensure an equal distribution of subsidies among the member states – and is reluctant to meet all standards as while this is not the case. At present the countries receiving the most agricultural subsidies are France (22 per cent), Spain (15 per cent), Germany (14 per cent), Italy (12 per cent), the UK (9 per cent), Greece (6 per cent) and Ireland (4 per cent). Only 18 per cent of the budget is left for the remaining twenty countries.

The Czech Republic is happy with the proposal to retain a simplified area payment scheme (SAP) for the new member states until 2013. Even on the issue of cross-compliance the Commission reached a compromise. These conditions will be applied gradually; a first group in 2009, a second (more extensive) group in 2011. The Czech Republic has also been against cutting subsidies for big farms. The biggest concentration of such farms is in the new member states, mainly for historical reasons. Furthermore, it will not be possible to compete with Brazilian or US farms after 2013 because their most important advantage is in concentration of production at large farms. Regarding regular inspections of agricultural companies, the Czech Republic is not against, but considers that these controls must be undertaken while not disturbing the operation of farms and the work of farmers. During its presidency the Czech Republic will not be at the fore of submitting new proposals; it will rather try to finalise what France is unlikely to be able to close.

Besides energy policy, the priorities of the French Presidency include the environment and climate protection. The French hope to persuade the US and other industrial powers to change their current position on this issue. France has ambitions to chair the CAP reform negotiations and it will be unwilling to preside over changes of financial policy in agriculture. We can expect that France will try to close the health check issue, which will be discussed during the Slovenian presidency. It will probably also try to play an important role in the negotiations on the future of the CAP, particularly in connection to negotiation about the budget perspective after 2013.

Sweden is a long-time advocate of liberalisation, representing the inverse of traditionally protectionist France. It will not be easy to reconcile the conflicting positions of these three presidencies. However, there are some areas where consent has been already reached. They all share the opinion that it is necessary to reduce the administrative burden for farmers, to simplify the legislative framework of the CAP, to complete the health check of the CAP and to make reforms in some sectors – such as wine, fruit and vegetables, and milk. Concerning long-term goals, the three countries have also made an agreement on the necessity of rationalising spending in the field of the CAP. These changes will be accomplished probably after 2013, but the discussion will start already together with the budget one as the CAP expenditures are an important part of it.

CONCLUSIONS AND RECOMMENDATIONS

The EU Commissioner Mariann Fischer-Boël has said it is necessary to deal with the CAP as it is not in a good condition. The CAP has gone through a number of significant metamorphoses during its history. Relatively safe food has been guaranteed; the countryside is picturesque and viable. Yet there is always room for improvement. The CAP is facing a number of challenges and there are remedial steps that can be taken; the health check is not only a check-up.

■ **It is necessary to strengthen EU agriculture and improve its competitiveness.** This will not be easy, particularly after the last EU enlargement, which took in two mainly agriculture countries with undeveloped agriculture and a need for strong support.

■ **It is necessary to decrease CAP spending.** This issue can be addressed by the co-financing of CAP from national resources. The question up for discussion remains whether to use full financing from national resources or simply to decrease financing from the EU budget and compensate it with increased financing from national resources. The agricultural sector is unstable, a result of many specific features – for example, environmental conditions, consumer behaviour, long-term production processes which make fast reactions to market signals difficult, and the fact that farmers have costs all year round but only one-time gains. Financial support from the state or the EU is therefore necessary to stabilise the sector. We can expect that protection and support for farmers will continue into the future. Furthermore, the new costs of ecologic services must be factored in. It is therefore unreasonable to expect significant changes in the financial burden even on the medium-term horizon.

■ **It is necessary to match the level of subsidies.** Managing the CAP at the supra-national level has certain advantages - for instance, it ensures that conditions and rules for environmental protection are fulfilled by all member states. However, it is difficult to agree with the words of the Commissioner who said – regarding the subsidies policy – that the national character of the CAP ensures equal conditions for all farmers in the EU. And what can be said to defend the CAP? It is difficult to respect all rules, goals and intentions when there is constant enlargement. The adhesion of new countries with different levels of agriculture will continue to influence significantly the working of the CAP. That is why it is necessary to revise the policy more often.

■ **Do not forget about production!** Traditional agricultural policy, which supports increases in production, is not the current trend. Today the biggest emphasis lies with multifunctional agriculture, which is surely correct. It is necessary however to take care not to divert from production, which could lead to new food shortages in the context of a growing population.

■ **The presiding country's impact on CAP reform must be restricted.** The final outcome of the revision, with its modifications and new goals, will depend on the timing of the fundamental decisions about the CAP. There is therefore a risk that the interests of the presiding country will show in the final form of the CAP.

■ **It is necessary to pay more attention to the situation outside the EU.** The CAP is not the only EU policy; it must be able to react to changes outside the EU, particularly in the most important markets (the US and China in particular).

■ **Information and education about the CAP must be improved.** The public is prone to thinking that farmers receive subsidies for doing nothing. Yet they are not subsidies but payments; and payments are the price for multifunctional agriculture.

REVISION OF THE CAP – TOWARDS A NEW COMMON AGRICULTURAL PROJECT¹

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Dreamed up among the ruins of post-war agriculture, the common agricultural policy (CAP) is still governed by principles decided by the Treaty of Rome in 1957 – and this despite important reforms in 1992, 1999 and 2003. Today the Union must reconsider the formula for its farming project. The context demands it; the agenda allows it; and the changed positions of member states in the debate make an ambitious reform possible.

In the details, a “new CAP” is up and running since 2003: more oriented towards market signals, more connected to world markets, no longer exclusively agricultural but also concerned with other areas of town and country planning. After traumatic crises of over-production, financial aid to the sector is now disconnected from production quantities. Intervention prices decrease progressively and a growing part of the community budget is directed towards the second pillar. Subsidies are conditioned on respect of good environmental practice. The CAP has risen to new challenges: enlargement to former socialist countries, the need to respond to the wishes of consumers, demands of third-party countries on trade.

The CAP is the EU’s only truly integrated policy, and from a financial perspective it has long been the Union’s single most important budget item. Since the 1990s, however, its share of spending has decreased relative to other policies. In 2008, for the first time, the largest item of the European budget will be cohesion policy rather than the CAP. Support to agriculture remains stable, accounting for more than 40% of the budget, or 43 million euros. Despite these changes and the relative reduction of spending, the agricultural budget is criticised and the principles of the CAP are under attack. A number of member states are unwilling to accept that spending of this scale should be directed at agriculture, a minor sector of the European economy.

The CAP’s health check and the budgetary revision of 2008-09 offer a framework which could allow negotiators to give new direction and a new budget to the CAP, looking ahead to the next financial period. The French, Czech and Swedish EU Presidencies will have the task of initiating this debate. Here they have a considerable responsibility, to the extent that everything remains to play for in the negotiations: we could once again see simple trade-offs at the margins, or we could witness a genuine debate which allows a thorough rethinking

1. This article is inspired by two documents published by Notre Europe: “The CAP beyond 2013: adopting a longer view”, by Bureau and Mahé, March 2008; “Pour une politique européenne de l’agriculture et de l’alimentation : en finir avec la PAC”, by Jean Nestor, February 2008.

of the EU's agricultural project for the post-2013 future. Here we will analyse facts which should encourage Europe's partners to discuss a deep reform of the CAP, and this as early as the health check. We will describe what is at stake in the reform. As a firm believer in common action on agriculture, Notre Europe will express its views on the Union's responsibility in these negotiations to foster hard thinking on a new common agricultural policy.

REASONS TO RETHINK THE CAP: PERSISTENT DYSFUNCTION

In spite of reforms, persistent problems in the functioning of the CAP mean that criticism has not subsided.

The primary focus of critics concerns the architecture of the CAP's first pillar – market support measures. The total cost of the CAP is high, in large part due to compensation payments when certain agricultural sectors are restructured or affected by price falls. The quantity of this aid represents a significant proportion of farmers' income in some sectors (large landholdings in particular). These payments are hotly contested on grounds of unfairness: 70% of the transfers go to 20% of farmers. As the principal beneficiaries, large farms gain the most from price support and direct payments, without providing a public good or positive externalities. Based on historic yield figures, these payments have lost legitimacy to the extent that the transfer amounts have not been updated since 2003; this context is leading likewise to an inexorable decline in the legitimacy of the CAP generally. It should also be mentioned that the disparities between member states in the allocation of the budget are a persistent bone of contention for the European project.

A secondary focus of criticism addresses the CAP's second pillar, an ensemble of measures with varying objectives – to do with the environmental, planning and social issues – which has more to do with a collection of measures rather than a clear strategy. CAP money is increasingly spent according to rules designed to protect the environment, but the effectiveness of these rules remains in question. The facts of the matter are difficult to decipher, and certain problems remain unresolved (for example, biodiversity, wetlands and certain threatened bird species).

From a rural-development perspective – meaning assistance to promote economic development and quality of life in the countryside – the CAP remains likewise decidedly imperfect, in spite of the budget changes since 2003. That the CAP is fragile can be deduced from the relative decrease in its budget, but also from the weakness of the measures in axes 3 and 4 of the second pillar.² Finally, the resistance of member states to a 2003

2. The second pillar of the CAP comprises 4 axes of which decisions on exact allocations are delegated to member states, albeit subject to thresholds set for each: 10% at least for axis 1, "competitiveness", 25% for axis 2, "environment and countryside", 10% at least for axis 3, "quality of life and diversification", 5% at least for axis 4, LEADER (after an earlier Community Initiative Programme for rural development). In Marjorie Jouen, "European rural Development Policy in questions", Notre Europe, Septembre 2007.

Commission proposal of significant obligatory modulation rates has shown that actors' positions on this policy remain ambiguous.

Confronted with these problems, with the unfinished nature of the project, and with the potentially contradictory objectives of different pillars, the stakeholders in the debate over the CAP's future seem ready to negotiate without taboos, opening the way to an ambitious reform.

POSITIONS OF STAKEHOLDERS ON CAP REFORM

Given that the CAP was not reformed for more than 30 years, it is reasonable to ask whether an effective, ambitious reform is politically feasible. Member states are driven more by differing visions and interests than by a common project for agriculture. However, all stakeholders in the debate are prepared for a thoroughgoing reform of the policy. Circumstances have changed. In institutional terms, enlargement to 12 new member states has changed the balance of power: close, long-term coalitions between member states are a thing of the past. And France, both an engine and a vehicle of blockages and stalling in the CAP's history, has announced that it is ready to lead an ambitious debate. The upheavals in the Council will probably be amplified by application of the Lisbon Treaty in 2009: from this date, the intergovernmental Council will no longer be able to make decisions about agriculture without the agreement of the European Parliament. These institutional changes arrive at a time when certain previously unpopular or unspoken positions are coming into favour: this is the case with renationalisation, for instance.

On another level, civil society is increasingly making its weight felt in the Council, by means of NGOs and the public platform offered by the internet. Negotiations between states will be more closely watched and taxpayers will be less willing to finance a policy which contradicts their priorities. A majority in Europe still expresses support for farmers, but opinion is more divided on the quantity of aid called for, given the mistakes of the past.

Finally, new divisions have emerged between farmers themselves. A growing proportion of large-scale farm managers seems content to take chances on high prices on the world market, rather than defend legacy price instruments. This new rift is to be added to the pre-existing one between beneficiaries and non-beneficiaries of the CAP. And divergences are deepening with the entry of 12 new member states into the already disparate world of European agriculture.

Helped by the recent rise in commodity prices – a novelty since the creation of the common agricultural market – tense feelings over the advantages of the PAC have relaxed somewhat. This situation offers the opportunity to rethink thoroughly a policy which, with its accumulation of reforms and adjustments since 1960, has become particularly complex and difficult to understand.

REFORMING THE CAP FOR A BRIGHTER FUTURE: WHAT IS AT STAKE

Several major developments are currently affecting agriculture; the rise in world prices is only one of them. To understand the shape of farming after 2013 – end of the 2003 compromise – we must analyse these changes.

The first issue for European agriculture is production. Rising incomes and changing consumption patterns in emerging countries are already boosting demand for meat and dairy products. Biofuels have created a new demand for land for energy-generation purposes. These long-term trends are an invitation to Europeans to contribute their share of supply to the world agricultural market. But if European agriculture finds itself in an unusual situation due to the rise in commodity prices, can we be sure that this period will be used for long-term thinking about agricultural policy? It would be perilous to rely on recent trends as justification to do away with safety nets and the EU's capacity to intervene in the agricultural domain. The particular features of the sector call for prudence; the CAP's history shows that correction of imbalances in agricultural markets will always carry a risk of overproduction followed by penury. Europeans must therefore preserve instruments for regulating markets in time of crisis, while encouraging the competitiveness conducive to participation in the world agricultural market. The instruments must remain compatible with the multilateral rules of world trade, or – in the eventuality that the Doha round breaks down – with bilateral trade agreements.

A second imperative for European agriculture will be the need to respond to societal demands, in an open economy and with a constraint budget. Consumers and citizens have been deeply affected by the food-safety crises of the 1990s and by environmental scandals (for instance, nitrate pollution). They would like the CAP to guarantee both security of food supply and respect for the environment – that is, water quality, protection of natural habitats and the like. The CAP must also take into account the nascent demands of a newly urbanised population and a growing ignorance of the realities of rural life on the part of Europeans. Doing so will be essential at a time when consumers are mostly disconnected from producers and the slightest rumour can shake their trust. In order not to further undermine this trust in a production system supported by the EU, new factors must be seriously considered: in particular animal welfare, food quality and diversity, organic farming, and questions of ethics. However, it remains uncertain to what extent limitations on fertilisers and pesticides, bans on GMOs, rules of eco-conditionality and other such measures are compatible with competitive agriculture in an open economy.

A further major factor will be the need to make the CAP compatible with the EU's other policies. Several inconsistencies can be cited. Firstly, agriculture's particular need to emphasise differences such as traditional or geographical "appellations" might be threatened by health regulations (the tightening and harmonisation of rules on production processes) or the competition imperative (standardisation of labelling to distinguish brands). Discussions should take into consideration this aspect of food and agriculture, which

remains important to Europeans, as well as the need to bring measures into line with competition policy. Cartels and barriers to market entry are currently encouraged in sectors of high added value, such as the “appellations d’origine”. At the same time, other measures attack any production cartel which seeks to limit the impact of price falls in times of crisis. Finally, the CAP reform must take care to limit inconsistencies with cohesion policy, now the EU’s most important area of action. There is a strong probability that the farming sector will contradict objectives of cohesion policy once it is exposed to the forces of the market. Competition and the productivity imperative create an incentive for farms, as well as industries, to concentrate. In practice this means a relocation of production sectors (for example, sugar) into a handful of zones. More generally, the CAP must be considered in parallel to structural and cohesion policy, in particular in the case of new member states. It remains possible that this harmonisation of the CAP with the EU’s other policies will result in new budgetary architecture and a reform of the CAP’s functioning, which might no longer be managed directly and exclusively by a single sectoral administration and its associated bodies.

To anticipate the responses to this new agricultural context and to make the CAP coherent once again, the opportunity of negotiations chaired by France, followed by the Czech Republic and Sweden, must be seized in order to redefine thoroughly the common agricultural policy.

FOR A NEW COMMON AGRICULTURAL POLICY

It is vital for the EU to maintain a common policy in agriculture. Talk of the benefits of the CAP is no longer audible, drowned out by criticism. Yet it was this policy that got post-war European agriculture onto its feet and made the EU one of the most important green powers in the world. However, this debate is less about the historical record than on how European countries will face major challenges in the medium and long term.

Even if the sector contributes only 2.5% of the EU’s GDP, agriculture is inescapably a strategic factor in the sustainable development of societies. Food supply, security, the quality and diversity of produce, town and country planning (80% of the Union’s territory is rural and here farmers are the principal actors), the environment, the dynamism of rural areas: the CAP is closely involved in all these questions. Action is needed in many of these areas, and a common project allows collective responses. Undermining the CAP by giving way to the siren calls of economic “modernism” would neglect these questions. The Union must bring a response to these questions of economics, health, society, planning and the environment; issues which were once settled “naturally” by a myriad of small landholdings, but which today risk being ignored in a context of more rarefied agriculture.

Only a “new” common agricultural policy, ambitiously reformed, will strengthen the EU. After half a century the CAP still adheres to objectives set out in the Treaty of Rome.

Adaptations and reforms have made the policy particularly complex and unclear. A revision of fundamental aims is needed to make the CAP coherent once again. Three missions seem necessary:

- To ensure the continued existence of European agriculture which is productive, competitive and diverse, while maintaining both market-regulation instruments – as security nets – and standards in safety and quality.
- To promote agriculture which respects the environment.
- To guarantee economic and social development in rural areas, by financing different rural actors including those not directly related to farming.

This clarification of the CAP's aims – or rather, this definition of a new common agricultural project – must precede negotiations over the instruments and the budget of the policy. Without this exercise of reflection, the CAP risks reform by budgetary trade-off rather than by political ideas. France, the Czech Republic and Sweden must ensure that this debate on first principles takes place either before or during the budget negotiations, and that the CAP's contribution to the EU's strategic direction is properly defended.

PART V

EUROPE IN THE WORLD



PART V – EUROPE IN THE WORLD

EXTERNAL RELATIONS

The priority given to bilateral relations with non-EU countries by member states has led to inconsistent and counter-productive positions, particularly in relations with major neighbours like Russia (*ECFR*).

The EU's external strategy should nevertheless make a significant qualitative leap over the coming years. On the one hand, Europeans have become aware of the urgent need to speak with one voice on the international scene on a number of key issues, such as Europe's attitude to Iran or ensuring the Union's energy resources. On the other hand, the institutional advances of the Treaty of Lisbon favour a single representation of the Union on the international scene and should encourage the emergence of common European positions.

However, the upcoming Trio Presidencies, which will be responsible for implementing the Treaty of Lisbon, must pay a specific attention to the establishment of the European External Action Service: it should be linked to internal security matters with a seat on the new COSI (Committee on Internal Security); at least two deputies – one in the Council and one in the Commission – should be appointed to the High representative and only the best diplomats should be in the EAS (*CER*). It should adequately coordinate the different players involved in the EU's external policies (trade policy, neighbouring countries policy, etc.) (*CER, Fondation pour l'innovation politique*).

Moreover, various think tanks have pointed to the need for the Trio Presidencies to start promoting on the international scene the general principles that have thus far guided the project of European integration (*DIIS, ECFR, Fondation pour l'innovation politique*). A strategy of positive affirmation of its core principles, including democracy, rule of law and sustainable development, can play a key role in strengthening Europe's influence in the world and its competitiveness on global markets. In order to establish a clear and recognisable European line, these principles should prevail across the EU's external relations in all domains, from its relations with Russia (*ECFR*) to the promotion of democracy outside the European Union (*ECFR*).

At the same time, greater prominence should be given to the principles and themes developed in the Lisbon Strategy (*SIEPS*). The inter-dependence between economies stemming from the expansion of global commerce (in which the EU's share is likely to diminish over the coming decades) makes it essential that the EU develop an external policy which encompasses competitiveness. Beyond the promotion of social standards, Europe should also promote environmental standards based on a strong partnership between its institutions and its exporters (*Fondation pour l'innovation politique*). In doing so, environmental innovation in the

public and private sectors will bear fruit in terms of employment within the Union. Lastly, conditionality is an instrument that should be used more frequently since the economic strength of the EU can help in the promotion of European values (*ECFR*).

DEFENCE

To strengthen its credibility, its influence and its capacity for intervention on the international scene, notably in Afghanistan (*ECFR*), Europe needs to acquire an effective defence capability. Faced with the amplification and dissemination of potential threats, the EU suffers from a deficit of operating means, a poor exploitation of its already limited resources and an unbalanced distribution of responsibilities between its member states.

To match its ambitions, Europe must upscale its commitments to existing operations, both in terms of personnel (military and civilian), and in terms of financial assistance (*ECFR*). However, substantially raising the national and European defence budgets seems an unlikely means of achieving this goal.

The only realistic option is better management of existing resources via mutualisation and rationalisation: the development of a genuine European defence market, grouped procurement, a multiplication of common R&D programmes under the management of the European Defence Agency (*Europeum*) and the implementation of permanent structured cooperation introduced by the Treaty of Lisbon (*EPC*) are just a few examples of the areas that need to be explored.

The EU should also try to establish more equitable burden sharing, not just between Europeans, but also between the EU and NATO. For example, in Afghanistan, States which for domestic political reasons will not upscale their military effort in the south of the country could take on additional civil missions such as training the local police force (*ECFR*).

The need for a more consistent and integrated defence policy implies a number of other support requirements:

- An update of the current European Security Strategy (2003) in order to improve its implementation (*Europeum*, *EPC*).
- Take advantage of the application of the Treaty of Lisbon to adapt the EU's common foreign policy instruments to the requirements of a reinforced ESDP (*EPC*)
- Enhance coordination between European institutions by sharing member states' strategic, human and military resources (*ECFR*).

- Improve cooperation between civilian and military personnel via knowledge sharing, the elimination of barriers between ministries (*CER*) and the development of established cooperation procedures (*Europeum*).

- Improve coordination between NATO and the EU from a strategic point of view (*ECFR*) as well as from an operational and planning point of view (*CER*) by taking advantage of France's improving relations with the United States, the change of administration in the US and the revision of NATO's strategic concept in 2009. This would allow an "effective multilateralism" and "competitive inter-dependence" with "strategic partners", as recommended by the European Security Strategy (*EPC*).

EU ENLARGEMENT

For the time being, the question of EU enlargement is absent from the front pages or EU news. This absence is caused by the laborious integration of the EU's 12 new member states; the characteristics of the current candidates who do not form a dynamic group like the previous candidate group, and by the persistent political instability in the numerous neighbouring countries that may be potential candidates.

The question confronting the Trio Presidencies is not one pertaining to the next enlargement, but rather how to maintain the pace of current negotiations without abridging core requirements, such as democracy. The fact that the three presidencies may not have the same ideas and ambitions regarding EU enlargement suggests that the three governments should approach this issue with prudence and pragmatism so as not to distort the external message.

They should ensure that:

- Neither the work of the "High Level Advisory Group" nor the Union for the Mediterranean project be allowed to create interference with the questions of the EU's enlargement and its frontiers (*Europeum*).

- The positive results of the last two enlargements, of which a good illustration is the extension of the Schengen zone, receive more attention and be more positively communicated to the general public (*Eliamep*, *Europeum*).

- A strategic revision of the enlargement program be launched (*Eliamep*).

- The EU does not relax its pressure in the Balkans and that it accepts its new responsibilities in the region with greater resolve (*Eliamep*, *Europeum*).

- The potential of Neighbourhood policy instruments be more intensively exploited (*DemosEuropa*).

REALISING THE NORMATIVE POWER OF THE EU

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REVIEW OF THE CURRENT STATUS OF THE EU AS A NORMATIVE POWER IN EXTERNAL ACTION

Agreement on the Treaty of Lisbon amending the Treaty on European Union and the Treaty Establishing the European Community was a good way to end the Union's 50th birthday year. The French, Czech and Swedish Presidencies provide a first opportunity to look forward towards implementing the amended treaties. It will be a chance for the European Union to realise its normative power in external actions. The timing for such a realisation could not be better, with German Chancellor Angela Merkel, French President Nicolas Sarkozy, and British Foreign Minister David Miliband all arguing in late 2007 for a more proactive EU role in promoting normative principles such as human rights and freedom – and this in a more just multilateral system, using the power of ideas and acting as a role model not a superpower.

As the articles on the Union's values, objectives and external action (articles 2, 3, and 21 of the amended EU treaty) illustrate, the EU is now constitutionally and legally committed to promoting the normative principles of peace, freedom, democracy, human rights, rule of law, equality, social solidarity, sustainable development and good governance. For the first time, these principles are to apply equally in internal policies, accession procedures, and external actions – eliminating the inconsistencies of their promotion across areas such as enlargement, neighbourhood, development, trade, and foreign policies.

The general aim over the next three presidencies, running from July 2008 to December 2009, must be to ensure that the EU's normative power is consolidated and developed through the coherent and consistent application of its normative principles. The rest of this contribution sets out why and how these normative principles should be promoted in the EU's external action.

ANALYSIS OF THE EU'S NORMATIVE POWER

Any holistic analysis of the complexities of global interdependence over the fifty years since the Treaty of Rome demonstrates that the distinctions between internal policies and external actions are more permeated than they have ever been. In this world the EU must strike a balance between the extremes of communist collectivisation and

capitalist individualisation; between the brutalities of nationalism and the problems of globalism. There are nine normative principles which characterise this European balance: freedom, democracy, rule of law, and good governance reflect more liberal experiences; while human rights, equality, solidarity, and sustainable development reflect more social experiences. Taken together, these nine normative principles provide a path for the EU and its external actions in a 21st century which will be lived more safely without an uncritical belief in any one ideology.

The prime EU normative principle of *sustainable peace* addresses the roots or causes of conflict, mirroring the European experience of ensuring that war “becomes not merely unthinkable, but materially impossible”. The EU policy emphasis is placed on development aid, trade, interregional cooperation, political dialogue and enlargement as elements of a more holistic approach to conflict prevention. However, the EU’s growing civilian and military operational capacities also have a sustainable peace mission with a focus on “peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter” (amended TEU, article 42).

The second EU normative principle is social *freedom*. Freedom in the EU operates within a distinctive socio-legal context. Thus, freedom is always just one of several rights, held alongside other equally important principles such as democracy, human rights and the rule of law. Within the EU social freedom is circumscribed by the need to ensure that other normative principles are not compromised by unwarranted freedoms, such as anti-social behaviour, hate crimes, inflammatory speech or pornography. The wider implications of EU social freedom are significant, not least in references to ‘protection of children’s rights’ as an objective, as EU encouragement of extraterritorial legislation on ‘sex tourism’ illustrates (amended TEU, articles 3-3 and 3-5).

The third EU normative principle is consensual *democracy*. It is the operating principle in the majority of EU member states and includes proportional representation (PR) electoral systems, coalition governments and power-sharing among parties. Similarly, the EU itself is a consensual form of polity, with PR and power-sharing in the European Parliament, non-majoritarian voting (either qualified majority voting or unanimity) in the Council, and power sharing among all the member states. The EU has helped to spread consensual democracy into Central and Eastern Europe as part of the transition and accession processes.

The fourth EU normative principle is associative *human rights*. Associative human rights include both individual human rights and collective human rights. These are associative because they emphasize the interdependence between individual rights, such as freedom of expression, and group rights, such as religion or belief. The associative nature of EU human rights has developed since the 1973 Declaration on European Identity, through the 1986 Declaration of Foreign Ministers of the Community on Human Rights and the 1991 Resolution of the Council on Human Rights, Democracy and Development. All of these

documents emphasize the universality and indivisibility of these associative human rights with consensual democracy, the supranational rule of law and social solidarity.

The fifth EU normative principle is the supranational *rule of law*. The EU principle of the rule of law is supranational in three senses – communitarian, international and cosmopolitan. First, the EU principle of communitarian law promotes the pooling of sovereignty through the *acquis communautaire* – the supranational rule of law within the EU. Second, the EU principle of international law encourages participation by the EU and its member states in supranational law above and beyond the EU. Third, the EU principle of cosmopolitan law advances the development and participation of the EU and its member states in humanitarian law and rights applicable to individuals.

The sixth EU normative principle is inclusive *equality*, involving a more open-ended and uninhibited understanding of which groups are particularly subject to discrimination than is suggested by article 3-3 of the amended TEU. Hence, the 2000 Charter of Fundamental Rights of the Union included references to the prohibition of “*any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation*” (article 21, emphasis added).

The seventh EU normative principle is *social solidarity*. The extensive understanding of social solidarity becomes clear in references in the objectives of the amended TEU to “balanced economic growth”, “social market economy”, “full employment” and combating “social exclusion”, as well as promoting “social justice and protection”, intergenerational solidarity, and social solidarity among (and between) member states. The principle of social solidarity goes beyond intra-EU relations to inform and shape EU development and trade policies, as the treaty suggests with its references to the Union’s contribution to “solidarity and mutual respect among peoples, free and fair trade, eradication of poverty” (amended TEU, article 3-5).

The eighth EU normative principle is *sustainable development*, which places an emphasis on the dual problems of balance and integration. The EU principle of sustainable development is intended to provide a balance between uninhibited economic growth and biocentric ecological crisis: the Union “seeks to promote balanced and sustainable development” (preamble to the Charter) and “shall work for the sustainable development of Europe based on balanced economic growth” (amended TEU, article 3-3). In parallel, the principle also involves the integration, or mainstreaming, of sustainable development into the policies and activities of the Union. The EU seeks to promote these principles of sustainable development beyond Europe through its enlargement, development, trade, environmental and foreign policies.

The ninth EU normative principle is *good governance*, emphasizing quality, representation, participation, social partnership, transparency and accountability in “the democratic life of the Union” (amended TEU, article 10). The EU principle of good governance has two

distinctive elements, both of which have significant internal and external consequences: namely, the participation of civil society and the strengthening of multilateral cooperation. Since the Commission presidency of Romano Prodi (1999-2004) significant emphasis has been placed on the promotion of good governance through the participation of civil society in order to encourage openness and transparency, as well as to facilitate democratic participation (amended TEU, article 11-2 and amended TFEU, article 15-1). In parallel, the unilaterally-led invasion of Iraq has ensured that member states have strengthened their commitments to the promotion of “an international system based on stronger multilateral cooperation and good global governance” (amended TEU, article 21-2(h)).

DETAILED RECOMMENDATIONS ON REALISING THE EU’S NORMATIVE POWER

The Lisbon Treaty ensures that the first objective of the Union is to promote peace (amended TEU, article 3-1). The rest of the treaty suggests that this objective of *sustainable peace* is to be realised in at least three different ways:

- Peace between member states is to be guaranteed through enlarging the membership of the EU itself, ensuring that the peace in Europe of the last 50 years is sustained into the foreseeable future.
- Close and peaceful relations based on cooperation with neighbouring countries are realised through deepening special relations with the Union’s neighbours (amended TEU, article 8).
- Peace and international security are generally advanced through the EU’s external actions, including such provisions of the Common Security and Defence Policy as “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation” (amended TEU, articles 42-1 and 43-1).

The Lisbon Treaty also states that the second objective of the Union is to offer its citizens *freedom* (amended TEU, article 3-2). The rest of the treaty sets out the extent to which the realisation of freedom goes beyond the bounds of the area of freedom, security and justice:

- The five freedoms of persons, goods, services, capital and establishment are to be achieved within the EU (amended TFEU, articles 45-66).
- Freer trade and market access are promoted through trade liberalisation agreements with partner countries in the form of the European Economic Area, customs unions,

association agreements, stabilization and association agreements, partnership and cooperation agreements, and economic partnership agreements.

■ Fundamental freedoms such as freedom of thought, expression, assembly and association are promoted through the 14 articles of the freedom title of the Charter of Fundamental Rights, and through EU accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (amended TEU, article 6-2).

The trinity of democracy, human rights and rule of law, as article 21 of the amended TEU suggests, is to be consolidated and supported in the EU's external action. The treaty indicates at least three ways in which *democracy* is to be realised:

■ Internally through the provisions on democratic principles set out in articles 9 to 12 of the amended TEU, including democratic equality, representative and participatory democracy, and the role of national parliaments.

■ Through the solidarity clause, which the EU and its member states can invoke to protect democratic institutions from any terrorist attack (amended TFEU, article 222).

■ externally through enlargement and accession, as well as neighbourhood and development policies.

Article 6 of the amended TEU dealing with fundamental rights illustrates the way in which *human rights* developments within the Union contribute to its external actions:

■ The inclusion of human rights as general principles of the Union's law, emphasized by the Charter and the planned accession to the ECHR.

■ The five articles in the dignity title of the Charter both reflect and are reflected in the promotion of human rights.

■ The promotion of human rights provisions through the interdependent external actions of trade and aid, humanitarian and migration issues.

Article 21 from the amended TEU's general provisions on the Union's external action is to promote multilateral solutions to common problems, in particular through the development of the supranational *rule of law*:

■ The rule of law joins democracy and human rights in its promotion as an essential element in EU agreements with third countries (amended TEU, article 21-2(b)).

■ Alongside freedoms, dignity and citizens' rights, the four articles in the justice title of the Charter both reflect and are reflected in the promotion of the rule of law.

■ The promotion of the rule of law both within and between states is part of the EU's declared commitment to "effective multilateralism" involving "well functioning international institutions and a rule-based international order".

The third objective of the Union involves combating discrimination and promoting *equality* (amended TEU, article 3-3). The promotion of equality in Europe and the world has at least three dimensions. These emphasize the equality of citizens and member states, and identify the types of discrimination to be targeted by its policies:

■ Recognising the principle of equality of its citizens as a fundamental democratic principle and the equality of its member states as being a fundamental principle of union (amended TEU, articles 9 and 4).

■ The amended treaties and Charter identify common forms of discrimination to be combated, with a particular emphasis on gender equality across EU policies.

■ The seven articles in the equality title of the Charter emphasise the promotion of equality with attention to cultural diversity, gender, the rights of the child and the elderly, and the integration of persons with disabilities.

In addition to promoting equality, the third objective of the amended TEU is to promote *social solidarity* through a variety of treaty areas, including intergenerational solidarity, interstate solidarity and labour solidarity:

■ Intergenerational solidarity emphasizes the role of families and the state in providing practical, financial and social support across the generations.

■ Interstate solidarity involves a spirit of mutual solidarity between member states in order to promote economic, social and territorial cohesion, as well as in response to terrorist attack or natural or human-induced disaster (amended TEU, article 3-3 and amended TFEU, article 222 in particular).

■ Labour solidarity is concerned with the promotion of labour rights and workers' protection, including core labour standards and fair trade, and can be found entrenched in the twelve articles in the solidarity title of the Charter, as well as in the reference to "free and fair trade" in article 3-5 of the amended TEU.

The Union should promote *sustainable development* through encouraging international environmental protection and the sustainable management of global natural resources (amended TEU, article 21-2(f)):

- Balancing internal economic growth with protecting and improving the quality of the environment (amended TEU, article 3-3).

- Integrating environmental protection into the policies of the Union in accordance with the principle of sustainable development on the basis of Charter article 37: environmental protection.

- Fostering “the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty” (amended TEU, article 21-2(d)).

Finally, the amended TEU now promotes the achievement of good governance through as least three different practices involving:

- Developing participatory democracy, openness and transparency within the Union (amended TEU, article 10).

- Strengthening the right to good administration within the Union (Charter, article 41).

- Promoting an international system based on stronger multilateral cooperation and good global governance (amended TEU, article 21).

PROJECTING THE EU'S NORMATIVE INFLUENCE WORLDWIDE – TIME FOR A “GREEN” STRATEGY

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The new architecture of the EU “foreign policy” in the Treaty of Lisbon offers an opportunity to better co-ordinate existing external policies of the European Union. If trade is still likely to remain separate from the new European external action service, the imperative of combining climate change policies with economic competitiveness however strongly suggests the need for a global European strategy on external trade policies. And projecting the normative influence of the EU worldwide should be part of this strategy.

As import tariffs have been reduced and international trade has accelerated, non-tariff barriers (NTBs) have become the primary methods of controlling and restricting international commerce. NTBs range from quota policies and voluntary restrictions to a whole panoply of administrative barriers and technical standards (sanitary, phyto-sanitary and today environmental, etc.). The prevalence, ubiquity and scale of NTBs has increased to such an extent that the WTO has instigated a number of agreements to limit their use for protectionist ends. In effect, these measures can be used to block access to markets, either short or long-term. However, as soon as technical standards have been adopted and harmonised on a regional or international basis, they can also be tremendous stimulators of competitiveness, allowing extension of the potential markets for products. Hence, globalisation is today circumscribed by a system of standards that effectively regulate international commerce.

While European enterprises enjoy access to half a billion consumers within the common market, they nevertheless need support in their conquest of new markets outside the European Union. If European companies are to survive and prosper in a globalising context, the EU must invest more energy and resources to project European standards into the global arena.

These issues are not new. For several years now, they have been the subject of close collaboration between various different Directorates within the European Commission (External Relations, Trade, Enterprise, etc.), as well as between them and private interests represented in standardization organisations at national, European and international level, and the European Council.

However, today, these efforts take into account a new parameter that has emerged as a primary determinant in the regulation of international production and trade: the fight against climate change. European corporations fear the absence of an international pact on climate change, a situation that would leave them alone with the burden of greening the

international economy. They are actively denouncing the lack of clarity regarding the kind of measures the EU will put in place to safeguard their competitiveness. The challenge today is therefore to turn the issues of environmental protection into factors that contribute positively to the relative value of European products and services.

THE ENVIRONMENT AS A NEW FACTOR OF COMPETITIVENESS

The will of Europe to play a leading role in the fight against global warming is clearly expressed by the adoption of ambitious commitments to reducing greenhouse gas emissions – from signature of the Kyoto Agreement to the “energy-climate” package presented by the Commission on 23 January 2008 proposing the set of targets called the “three 20s” (to reduce greenhouse gases by 20%, to guarantee 20% renewable energy sources and to raise energy efficiency by 20% ... all by 2020). Most recently, the spring summit of March 2008 put environmental concerns onto the EU’s growth and job agenda.

A triple challenge: firstly, to make the EU a “low carbon economy”. Secondly, to convince the planet’s principal greenhouse gas producers – notably the United States, China, India and Brazil – to participate actively in this reduction of atmospheric pollution levels. So far, these countries are not linked by any mutual limitation agreements. However, we know that achievement of the EU’s targets alone would have only a negligible impact on the global climate (the EU is responsible for roughly 14% of global CO₂ emissions) and it could penalise European industries in terms of international competitiveness if other countries are not encouraged and/or helped to decarbonise their economies. For the fight against climate change to translate into a positive factor for European competitiveness, Europe must invest in scientific research, innovation, intellectual property and the efficient use of resources. But the drive to elaborate European environmental standards must go hand in hand with a constant effort to build a global system of standards into which European standards can be transcribed. Each new country that joins the international system allows an extension of the field of application of the standards.

The third challenge consists of ensuring that Europe achieves a leadership position within this system.

AN INTERNATIONAL STANDARDS FRAMEWORK UNDERGOING MAJOR CHANGES

Europeans must better anticipate the international context in order to strengthen their position.

Although 172 states signed the Kyoto protocol, developing countries are generally reluctant to join a process which they see as a European attempt to introduce “green

protectionism”. Their priority is economic growth; environmental protection is very much a secondary consideration that often depends on the degree to which they master the appropriate technologies. They also argue that the right to pollute should be shared equitably between all countries and that this “sharing” should take into account the entire period since the first industrial revolutions that eventually allowed Western countries to enjoy their current levels of wealth. In this logic, a decarbonised economy remains a “luxury” that they still cannot afford.

While the EU can try to impose limitations on European pollution via the adoption of restrictive regulations based on European directives, it cannot unilaterally impose environmental standards on the rest of the world. The recent change (February 2008) in the American position regarding a restrictive agreement between the main polluting countries clearly demonstrates that while the environment is now becoming considered a “global public good”, the mobilisation in favour of its protection can only function in the framework of a system of reciprocal and balanced interests. However, the will of the American administration to push both governments and private enterprises towards a voluntary mobilisation indicates to what extent the system of voluntary adoption of environmental standards is becoming a crucial aspect of the struggle against climate change at a global level.

VOLUNTARY STANDARDS: A VECTOR FOR INFLUENCE

Voluntary technical standardisation is based on the principle of consensual decision-making between private players, a principle that does in fact offer a more integrationist procedure than any obligatory regulatory framework imposed by national authorities or by an international organisation. Indeed, the impact on markets of voluntary standardisation is very often sufficient to induce and promote the adoption of an effective mandatory standard or set of standards: this is “standardisation by the market”. But in the beginning, it is usually the companies themselves, in collaboration with consumer and NGO environmental groups, which voluntarily adopt these standards. Indeed, the voluntary standardisation process itself tends to result in the representation of the views and interests of as many groups as possible. It also contributes to the gradual and progressive adaptation of companies to better environmental standards.

Therefore, we believe that the existence within the EU of an already highly integrated voluntary standardisation system is an advantage for Europeans over their non-European commercial partners. That said, in the United States, there are close to 350 voluntary standardisation bodies, compared with only one for each member state of the European Union.

Moreover, until recently, the Europeans had a leadership position within the International Standards Organization (ISO). Apart from the founding role that Europe played in the creation of the system, the economic weight of the Germans, the British and the French guaranteed, until recently, their membership of the ISO’s permanent committee.

And now that the reduced economic weight of the United Kingdom and France threatens to undermine their membership of the Committee, China, amongst others, wants to join the system and to play a more influential role within it. Indeed, in a bid to acquire a central role within the ISO, China is systematically offering to lead the technical committees. Other emerging powers such as Korea, India and Brazil are also growing their influence within the organisation.

Europeans face the twin challenge of favouring the integration of their commercial partners into these international organisations in order to integrate them into the international system of standardisation whilst simultaneously needing to strengthen their own positions within the same organisations. Indeed, the very size of China's domestic market raises its standardisation capacity, and the country's government has already indicated that it might be tempted to develop autonomous standardisation (cf. WAPI's failed attempt).

The European mobilisation with respect to China has already been strengthened. Since July 2006, the European standardisation organisations, supported by the European Commission, have employed a European standardisation expert in China with the mission of establishing a network ensuring the promotion of European standards in this rapidly expanding economy. In 2008 a similar position will be created in India. Such measures reflect both the rising importance of standardisation issues and the relative paucity of European investment in such issues. At a time when the major global players such as the United States and Japan are mobilising themselves (at the Davos forum in January of this year, Japan announced that it intends to give 10 billion dollars in aid to help developing countries fight climate change), Europeans must define and implement a veritable strategy of influence in the domain of environmental standardisation.

THE PRESIDENCIES TRIO

Ahead of the UN conference on climate change planned for the end of 2009 in Copenhagen, Europeans must focus on coordinating the different public and private players to define a global strategy combining environmental protection and competitiveness. The attention given to environment issues by the three governments of France, the Czech Republic, and Sweden, who will successively take on the Presidency of the EU starting in July 2008, must produce both an effort to invest in innovation (non-polluting technologies, low energy consumption buildings, etc.) and a strategy for projecting the normative influence of the EU worldwide.

■ Firstly, enterprises are very differently affected by pollution-reduction issues depending on their sector of activity. EU member states already have highly varied exposure to these issues, depending on their economic infrastructure. The elaboration of European environmental standards must allow an integration of these different interests

in a balanced way and, in so doing, demonstrate that the standards are appropriate for export to the global market. This objective is also related to a clarification of Europe's economic interests, a theme for which the European Council provides a pertinent forum for discussion – in which other community institutions should be involved. There can be no doubt that the process of elaboration of voluntary standards gives a comparative advantage to more powerful companies, which can help in the financing of standards that best serve their interests. Beyond the economic issues relating to the different sectors and their relative exposure to such themes, the European Community's institutions could contribute by integrating global competitiveness criteria where European companies have global footprints.

■ In addition, EU institutions can be a significant force in the promotion of voluntary European standards outside the European Union. By seeking to promote training in EU standards in non-EU countries, particularly in the environmental field, they can contribute to the commercial penetration of such normative requirements inside those countries - motivated by the potential for access to the European market. What is needed is a proactive strategy of influence that does not leave the possibility of becoming familiar with normative criteria only to market players who can afford to do so. The role of the EU institutions in this respect could even be described as an international vocation since they are the only institutions capable of implementing such a global strategy – the benefits of which, although vitally important, will only be felt in the medium term. These training initiatives have already been set up by standardisation bodies; but their scope could be substantially expanded by a policy of support from EU institutions – specifically the EC delegations, which deal with trade, development and other newer issues, and cannot be considered mere instruments of foreign policy.

■ In parallel with such training programmes, larger resources should be devoted to monitoring in order better to anticipate the normative strategies of non-EU states. It is more than optimistic to believe that one man can play such a role in a country like China, whose standardisation systems are still highly dispersed.

■ Lastly, to help emerging countries raise the thresholds of their environmental standards, policies for the transfer of clean technologies should be implemented simultaneously. European enterprises will find it much easier to develop their capacity for innovation if there is evidence that their investments will be rewarded by access to even wider markets.

By encouraging European companies to develop less polluting technologies – which would contribute to their international competitiveness – the EU would simultaneously help European citizens, employees and consumers to get the most out of the globalisation process.

THE EU AS A NORMATIVE POWER – MAKING THE LISBON STRATEGY'S EXTERNAL DIMENSION WORK

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In the last few years, the EU has increasingly confidently, at least on the declaratory level, proclaimed its standing as a major player at the global level. These proclamations have recently gained in strength through articles in the Lisbon Treaty that explicitly affirm the EU's resolve to pursue European interests on the global scene. In a parallel development, the Lisbon Strategy¹ has been extended to include an additional external dimension through which the EU is to pursue its interests. These two developments are potentially significant, in particular given the institutional changes brought in by the new Treaty, which are expected to help establish a more coherent European voice on the international scene. However, it would be premature to conclude that the EU will now be transformed now into a great foreign policy actor: the political and practical implementation of this aspiration will be fraught with difficulties. As member states and EU institutions embark on defining common interests and drawing up strategies to pursue them at the global level, a number of challenges awaits them.

In that process, and looking specifically at the area of the Lisbon Strategy, the following considerations should be taken into account:

- The concept of the EU as a normative power which draws on a body of shared values and norms for its internal cohesion.
- The Lisbon Strategy's ability to act as a framework to shape member states' national approaches to socio-economic change in globalization, including the existence of a degree of consensus on the reforms to be undertaken on national and European levels.
- The link made between the Lisbon Strategy and the EU's external interests can be explained by the importance given to European integration which marches in step with, and if possible gives support to, member states' economic and social transformations. From this perspective it should come as no surprise that the Lisbon Strategy has been extended to include an additional external dimension, as this serves not only to paint an external challenge with undisputed cross-border implications but also to bring out similarities in national welfare approaches which stand out in an international comparative perspective.

1. The strategy was launched in March 2000, at the summit in Lisbon, when the European Council proclaimed (in)famously that by the year 2010 the EU would become "the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion".

■ On the one hand, the external dimension of the Lisbon Strategy could enhance the EU's normative power by giving credence to the idea that a specific EU model exists. On the other hand, if the track-record of the Lisbon Strategy were to remain tainted by poor implementation and the European economy's international competitiveness to weaken, the promotion of European values on the global level would be without impact and the EU's approach to socio-economic transformation without credibility.

THE EU AS A NORMATIVE POWER

In the literature, the EU has often been referred to as an atypical foreign policy actor whose strengths derive from its normative foundations rather than such classical aspects of power as military might. The EU is labelled a "normative power" because the shape of its actions and policies grew out of values and principles laid down in the founding treaties and elaborated in various strategy documents.² It has become a hallmark of the EU to refer to these values as universal values intrinsically beneficial to all societies and widely shared throughout the world. The EU consciously promotes them in its dealings with third countries, not only as a basis for the cooperation with these partner countries but also as a model for the countries' economic, social and political development.

It has been argued that the EU by referring to its values and principles as guidance for the framing of policies, was in fact avoiding two different kinds of difficulties related to member states' conflicting views on the purpose and end-goal of European integration: first, as a substitute to a left-right ideological competition determining the appropriate policy-mix and prioritization; second, as a stand-in, however fuzzy, for lack of consensus on common EU interests to be promoted internationally.³ Now, with the inclusion of an external dimension into the Lisbon Strategy the EU is breaking new ground by explicitly referring to "EU interests" to be pursued internationally in areas as diverse as economic development and trade; the social dimension, including labour market issues, equality between men and women and the rights of children; hidden barriers to trade, such as competition policy and public procurement; climate change issues; and energy. In these areas, the pursuit of European interest can be observed in multilateral negotiations to set up regulatory systems and in bilateral negotiations with third countries or groups of countries where the EU often insists on convergence towards its own regulatory regimes. In the context of enlargement of the EU, the principle of conditionality has been extensively deployed in regards to the acceding country's acceptance of the EU acquis. The same

2. Ian Manners refers to the EU's normative principles of which he identifies nine: sustainable peace, freedom, democracy, human rights, rule of law, equality, social solidarity, sustainable development and good governance in Manners, I. (2008) "The normative ethics of the European Union", *International Affairs*, 84:1, pp. 65-80. See also, Manners, I. (2002) "Normative power Europe: a contradiction in terms?", *Journal of Common Market Studies*, 40:2, pp. 235-58.

3. Anna Michalski (2005) "The EU as a Soft Power: The Force of Persuasion", in Jan Melissen (ed.), *New Public Diplomacy: Soft Power in International Relations*, Palgrave/Macmillan.

principle of conditionality albeit with less coercion is present in association agreements between the EU and third countries such as the EEA and the ENPs.

GLOBALIZATION AS A CHALLENGE TO THE EXISTING SOCIO-ECONOMIC ORDER

It is a commonly observed fact that European integration has advanced in fits and starts. In the past, integration has made great strides when it has been associated with projects of societal modernization. Examples include the creation of the customs union and the Common Agricultural Policy in the late 1950s and early 1960s – which coincided with industrialization in Germany, France and Italy – and the Delors project of completing the internal market in the second half of the 80s, which sought to inject new dynamism into European economies by liberalizing and opening up intra-European markets. The two processes had one aspect in common, namely the identification of an external threat challenging the existing socio-economic and political structures; a threat which could only be met, it was argued, by member states acting in unison.

When it was launched in early 2000, the Lisbon Strategy aimed to modernize Europe's socio-economic structures and aspired to a shared vision of the knowledge-based economy.⁴ At the time, member states had different motives for signing up to the strategy, and still today there is no single version of what the Lisbon Strategy is and what it should lead to. During the eight years since the declaration, Lisbon has gone through a series of modifications reflecting the ups and downs in the European economy, the waxing and waning of political beliefs and the difficulty of cajoling states into implementing EU legislation (let alone guidelines and recommendations).

Today, the Lisbon Strategy can best be described as a framework programme under which the EU sorts policies that have an impact on the European economy's capacity to compete internationally and measures related to the modernization of national welfare states. Far from functioning as a platform for policy prioritization, Lisbon nevertheless permits European institutions, in particular the European Commission, to group a number of policies – including those with competing objectives – and present them as a coherent policy response to a set of contemporary challenges. So, despite a number of well-known shortcomings, the Lisbon Strategy has become political project which encompasses areas of high political relevance both on the national and European levels – such as structural reform, economic competitiveness, reform of labour markets and social security systems, energy and climate change, higher education, R&D and innovation.

4. Anna Michalski (2004) *The Lisbon Process: Lack of Commitment, Hard Choices and the Search for Political Will*, Study no. 23, The Clingendael Institute, The Hague.

In the Lisbon Strategy, the external threat of globalization to the “European way of life” is depicted as the motivation for the Union to seek to uphold its values and principles internationally in a way which advances its interests to the benefit of European citizens. Again, the stakes in terms of socio-economic reform are high: the aim of a “third industrial revolution” is presented as the prerequisite for Europeans to maintain their “way of life” in a context of intensified international competition other challenges such as an ageing population, climate change, and energy insecurity.

PROMOTING THE EU'S INTERESTS IN A GLOBALIZING WORLD

The Lisbon Strategy, which has mostly been directed at measures of internal reform, is now being expanded to include an external dimension. The shift of attention was heralded by the Commission in a number of policy documents. The most recent argues for the EU to be “actively promoting the European interest as a specific objective...”, and suggests that “the European interest needs to be specifically defined, strongly articulated, stoutly defended, and vigorously promoted...”⁵ This newly assertive rhetoric was endorsed by the European Council in December 2007, as political leaders declared their intent to “aim at shaping globalization in the interests of all our citizens, based on our common values and principles”. In a direct reference to the Lisbon Strategy, the leaders professed that it will “enhance member states’ capacity to compete in a globalized world, and increase the Union’s collective ability to pursue its interests and values in the world.”⁶

The underlying reasons for expanding Lisbon’s areas of involvement to the global level are connected to changes in the EU’s own structures as well as shifts in international political and economic conditions. Most importantly, with the enlargement of twelve new countries the EU has become an important player in the global economy: not only through the lure of the internal market and its position as a major exporter of goods and services and source of FDI, but also through its influential position in the setting of international rules and regulations in various fora – in cases where the EU has reached a common position. Secondly, the adoption of the Lisbon Treaty draws a line under a protracted period of EU treaty reform. This will hopefully open a new chapter in European politics where leaders in the European capitals and institutions can concentrate on issues other than that of institutional reform. Moreover, with the changes brought in by the new Treaty in the area of external policy, the EU is expected to adopt more coherent and forceful policy stances making use of all instruments at its disposal. Thirdly, the vision of a world characterized by multiple poles has gained credence as emerging powers jostle to gain an equal footing with the traditionally dominant powers on the international scene. This is underscored by the very high rates of economic growth in countries such as China, India and Russia; a situation which has caused a shift in economic activity and intensified concerns in Europe

5. European Commission, “The European Interest: Succeeding in the age of globalization”, COM(2007) 581 final, Brussels 3 October 2007.

6. European Council, “EU Declaration on Globalization”, Summit on 14 December 2007.

about the European economy's international competitiveness. Fourthly, the widely criticized policies pursued by the US in several regions and domains of international relations have created a void of moral and intellectual leadership at the global level which the EU with its normative aspirations is keen on filling.

The nature of the EU as a foreign-policy actor pursuing its interests at the global level takes a new and interesting twist with the explicit reference to the external dimension of the Lisbon Strategy. The EU has long promoted itself as a model of peaceful co-existence among historically warring nations, based on market integration and the adoption of common regulation in an ever-increasing number of policy areas, ranging from competition policy to the social dimension. In promoting internationally the interests emanating from the Lisbon Strategy, it is quite probable that the EU will let its positions be determined largely by domestic considerations – i.e., the influence of internal sectoral, political and public interests might play an important role. This raises a number of questions related to the EU's quest for influence and normative dominance in multilateral and bilateral negotiations with third countries, both concerning the instruments at its disposal and the processes by which internal domestic and sectoral interests are mediated. It also remains to be seen how the EU will reconcile domestic socio-economic interests and universal values pursued globally.

RECOMMENDATIONS TO THE TRIO

First, the EU must address the expectations of citizens and third countries. Ratification of the Treaty of Lisbon will give the EU, its member states and institutions, a new foundation for policies. Several novelties in the Lisbon Treaty, declaratory and substantial, are likely to lead to expectations by EU citizens as well as third countries about what the EU will and can do. In particular, the strengthened articulation of EU external interests feeds into a perception of the EU as a global actor. Whereas politicians and civil servants from EU member states and institutions will battle over the implementation of the institutional reforms, the outside world will expect policy initiatives and concrete action for their delivery. The EU has a collective responsibility not to be paralyzed by turf battles during the first few years following the entry into force of the new Treaty, and instead to address the question of policy substance which concerns EU citizens and third countries alike.

Secondly, the EU must prioritize its foreign policy objectives and coherence among policies. Much has been written about the need to ensure a higher degree of coherence among external policy objectives if the EU is to realize its full potential as a global actor. Coherence is important as regards policy objectives, their integration into coherent foreign policy stances and the effective delivery of programmes, projects and actions to implement these objectives. However, in terms of promoting European interests on the global level, there is also an important element of prioritization. The Lisbon Treaty mandates the EU to pursue interests, but leaves relatively open the question of who decides

what these interests are; where and by whom the adjudication among conflicting interests will be made; and where and by whom priorities will be fixed.

Finding political and procedural solutions to these questions is important in order to make the Brussels machinery work; it is also vital in order to resolve competing policy objectives which up until now have been largely ignored (apart from creating discord between the Commission and the Council Secretariat) because of the compartmentalization of EU policies. In the future, the EU will need to come up with clearer positions not only on policy nexii, such as security and development, development and democratisation, international trade and development, but, even more crucially, on the translation of the Lisbon Strategy's internal policy objectives into external policy interests. In doing so, the EU will be able to prioritize potentially conflicting goals.

Finally, the novelties brought in by the Lisbon Treaty open up a new institutional landscape, which raises the following questions in relation to the Lisbon Strategy's external dimension:

■ Who will advocate interests emanating from Lisbon's external dimension in relation to the more traditional foreign policy interests advocated by the High Representative? The new Treaty provisions seek to achieve coherence in EU's external action by creating the post of High Representative for the Common Foreign and Security Policy who is also a vice-President of the Commission. This person is expected to have a coordinating responsibility for all external policy portfolios of the Commission. The question which arises in this context is whether or not the HR will have a coordinating role inside the Commission in relation to the Lisbon Strategy's external dimension, and how (s)he coordinates with the Commission President who will most probably retain over-all responsibility for the Lisbon Strategy dossier. In the event that interests emanating from the Lisbon Strategy clash with foreign policy interests, coherence among competing interests will have to be worked out between the HR and the President of the European Council, possibly leaving the Commission President outside the deliberations.

■ Where and by whom will interests related to the Lisbon Strategy be expressed? For the moment the President of the Commission plays a crucial role in formulating and integrating objectives related to Lisbon Strategy in tandem with the Rotating Presidency, but in the future it looks certain that the Permanent President of the European Council will seek a strong role in the preparations of the Spring European Council, both in terms of arbitration of conflicting national interests and in the articulation of the interests derived from Lisbon. The President of the European Council, however, will remain dependent on the work done in the Commission departments and will have to find a *modus vivendi* with the Commission President, who in his or her turn will be eager to retain as much influence over the Spring European Councils as possible. The Lisbon Strategy, straddling as it does national and European competences, looks like a policy area in which the rotating presidency may want to keep a high profile – particularly as national ministers will

still be presiding the sectoral councils of ministers, where many policy processes falling within the Lisbon Strategy (e.g. the European Employment Strategy) are coordinated.

■ There is an obvious potential for competition among the institutional figure-heads for the role as EU's spokesman on the international scene on issues related to the Lisbon Strategy. This is particularly so if the European Council chooses give precedence to European interests derived from the Strategy at the expense of other policy interests (external trade, development, democratisation etc).

HOW TO COPE WITH RUSSIA – REBUILDING EU-RUSSIA RELATIONS AROUND RESPECT FOR THE LAW

Mark Leonard, Executive Director, ECFR

The election of Russia's new president Dmitry Medvedev gives the EU a chance to rethink its relationship with its largest neighbour and improve a relationship that has been troubled since the election of Vladimir Putin in 2000. In all likelihood, the EU will resume negotiations with Russia on a new Partnership and Co-operation Agreement (PCA) – which will help to institutionalise relations with the new President – but the EU risks missing an opportunity if it does not address some of the underlying issues that have made its dealings with Russia so ineffective.

In the 1990s, EU member states found it easy to coalesce around a strategy of democratising and westernising a weak and indebted Russia. But since Putin's first election, soaring oil and gas prices and a stronger government have made the Russian governing elite more powerful, less cooperative and, above all, less interested in joining the west. The EU's old strategy is out of synch with the realities of the new Russia. By all conventional measures, the EU is the stronger power: its population is three and a half times the size of Russia's, its military spending is ten times bigger, its economy is fifteen times the size of Russia's. But Europeans increasingly find that Russia is setting the terms of the relationship between the two blocs – from energy policy and the Western Balkans to Iran and the European neighbourhood.

The EU has been weakened because it has allowed Russia to become the most divisive factor in its internal politics since Donald Rumsfeld divided member states into "new" and "old" Europe. The conventional wisdom holds that this is a result of the 2004 enlargement which imported an anti-Russian bloc into the EU. But when the European Council on Foreign Relations commissioned experts from all 27 member states last year to examine the bilateral relationship between their countries and Russia, we found that it is mistaken to see the divide over Russia as pitting pre-enlargement western states against post-enlargement eastern states.

FIVE GROUPS – FIVE ATTITUDES TOWARDS RUSSIA

ECFR research has identified five distinct policy blocs towards Russia, each comprising old and new member states:

■ "Trojan Horses" – a phrase coined by the Russian Ambassador to the European Union – often defend Russian interests in the EU system, and are willing to veto common EU positions (Cyprus and Greece).

■ “Strategic Partners” enjoy a “special relationship” with Russia, which occasionally cuts against the grain of common EU objectives in areas such as energy and the EU Neighbourhood Policy (France, Germany, Italy, and Spain).

■ “Friendly Pragmatists” maintain a close relationship with Russia and tend to put their business interests above political goals (Austria, Belgium, Bulgaria, Finland, Hungary, Luxembourg, Malta, Portugal, Slovakia, and Slovenia).

■ “Frosty Pragmatists” also focus on business interests but are less afraid than others to speak out against Russian behaviour on human rights (Czech Republic, Denmark, Estonia, Ireland, Latvia, the Netherlands, Romania, Sweden, and the United Kingdom).

■ “New Cold Warriors” have an overtly hostile relationship with Moscow and have been willing to use their vetoes to block EU negotiations with Russia (Lithuania and Poland).

Broadly speaking, each of these groups finds itself somewhere on a continuum between two radically opposed approaches towards Russia. The first of these is based on the idea that Russia is a potential partner that can be drawn into the EU’s orbit through a process of “creeping integration”. This approach favours involving Russia in as many institutions as possible and encouraging Russian investment in the EU’s energy sector, even if Russia sometimes breaks the rules.

The second approach is based on the perception of Russia as a threat. Its proponents insist that Russian expansionism and contempt for democracy must be rolled back through a policy of “soft containment”. This involves excluding Russia from the G8, expanding NATO to include Georgia, supporting anti-Russian regimes in the neighbourhood, building missile shields, developing an “Energy NATO”, and excluding Russian investment from the European energy sector.

Both approaches have obvious drawbacks. “Creeping integration” would give Russia access to all the benefits of co-operation with no assurance that it would abide by stable rules. “Soft containment” would make it hard for the EU to draw on Russia’s help to tackle a host of common problems in the European neighbourhood and beyond. Taken together, they cancel each other out and make the EU appear weaker than it actually is. That is why the status quo does not serve the interests of any of the five groups.

THE NEED FOR A EUROPEAN STRATEGY

While the EU’s long-term goal should still be to have a liberal democratic Russia as a neighbour, the EU needs to develop a more realistic mid-term strategy of persuading Russia to become a reliable partner to the European Union. The goal should be to counter

the two features of Putin's Russia that have made it impossible to develop a partnership in the past:

- Legal Revisionism. Where the European project is founded on the rule of law, Moscow believes that laws are mere expressions of power – and that when the balance of power changes, the laws should be changed to reflect it. Russia today is trying to revise the terms of commercial deals with western oil companies, military agreements such as the Conventional Forces in Europe Treaty, and diplomatic codes of conduct like the Vienna Convention.

- “Asymmetric interdependence” with the EU. While EU leaders believe that peace and stability are built through interdependence, Russia's leaders are working to create a situation where the EU needs Russia more than Russia needs the EU, particularly in the energy sector.

The EU should therefore unite around a more balanced relationship with Russia based on a new paradigm of promoting the rule of law. The rule of law is central to the European project, and its weakness in Russia is a concern for all Europeans working there. Russia's selective application of the law affects businesses who worry about respect of contracts, diplomats who fear breaches of international treaties, human rights activists concerned about authoritarianism, and defence establishments who want to avoid military tensions. An approach based on the rule of law would also have positive echoes within Russian society, where even citizens who have become cynical about the language of democracy are concerned about corruption and the arbitrary exercise of power by the state.

If EU leaders manage to unite around a common strategy, they will not be short of policy tools for implementing it.

The first thing that the European Union must do is to examine its own failings. When EU member states are agreeing a new mandate for negotiating a Partnership and Co-operation with the Russians, they should ask the European Commission to conduct a formal review of EU relations. This should not go into the detail of all policy areas, but it must try to define the European Union's common interests in different policy areas such as energy, the European neighbourhood, security, and human rights; and set out some principles for how the relationship should work which will allow the EU to avoid some of the problems of the past.

An important part of this strategy should be a commitment from member states to make sure that the bilateral relations they conduct with Moscow are guided by common European principles. The EU needs to find a middle way between those countries who think they can secure a better deal for themselves through bilateral relations, and those states who perceive such contact as a betrayal (for example, Polish politicians have compared the deal on the Nordstream pipeline to the Molotov-Ribbentrop pact). The goal

should be to ensure that bilateral contacts between Russia and individual EU member states reinforce common EU objectives. This would involve the creation of an early warning system which would allow both upcoming crises and deals to be discussed within the EU.

This is particularly important in the energy sphere. It would be useful for the EU to adopt an informal code of conduct and some guidelines on energy deals, long-term contracts and forthcoming mergers. To avoid further monopolisation in the EU energy market, the European Commission could be granted the right to pre-approve big energy deals on long-term contracts and pipelines concluded between European and foreign energy companies. The aim should be to encourage open competition, respect for the rule of law and an integrated and flexible gas market.

Secondly, the EU should use negotiations on the new PCA to develop a new approach of conditional engagement with Russia. This will allow the EU to escape from the argument between proponents of “soft containment” and “creeping integration” over whether Russia should be included or excluded from international institutions such as the G8. Simply put, the EU should adjust the level of cooperation according to Russia’s observance of the spirit and letter of common rules and agreements. If Moscow drags its feet on given G8 commitments and policies, more meetings should be organised at a junior level under a G7 format, without excluding Russia from the G8. Similarly, the Union should not be afraid to use the EU-Russia summit and the negotiation of a new Partnership and Cooperation Agreement to highlight issues where Russia is being unhelpful, such as Kosovo and the conflicts in Georgia and Moldova.

As part of this process, the EU should insist on the implementation of contractual obligations and international commitments by Russia. The European Commission should, for instance, be given more political support to apply competition policy in the energy sector, and to investigate the more dubious deals between Russian and EU companies. More generally, the EU should demand the enforcement of the growing number of agreements which have not been implemented – the PCA, the four Common Spaces and the European Energy Charter. Ignoring Russian foot-dragging undermines the very principle of a rule-based relationship with Russia.

Thirdly, the EU should develop a new approach to its Eastern Neighbourhood. While some member states want to avoid competing with Russia for influence in Europe’s neighbourhood and others want an «anti-Russian» neighbourhood policy, we believe that the EU should encourage its neighbours to adopt European norms and regulations and thus integrate them into the European project. The EU could also invest in electricity interconnections with some neighbouring countries, give them access to the Nabucco pipeline, extend the European Energy Community and seek the full application the energy acquis in Turkey, Ukraine, and Moldova. Equally, the EU should explore the possibility of giving the Trade Commissioner a mandate to fast-track access to the EU market for

selected products in case of any more politically motivated Russian embargoes such as those imposed on Georgian and Moldovan wines.

If the EU wants to turn the new Russia into a dependable and cooperative neighbour, it must build its partnership with Russia on the same foundations that made European integration a success – interdependence based on stable rules, transparency, and consensus. But these foundations will not build themselves. The Union must be much more determined about agreeing rules of engagement with Russia, and then defending them.

A HAPHAZARD EFFORT – THE PROBLEM OF DEMOCRACY PROMOTION IN EU EXTERNAL POLICY

Richard Youngs, Coordinator of the Democratisation Programme, FRIDE

Freedom and democracy are what the European Union should be all about. Its precursor, the European Coal and Steel Community, was created in the aftermath of the Second World War to safeguard its member states from dictatorship and war; the EU Treaty declares that “the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the member states.”

But when it comes to foreign policy, promoting democracy and human rights abroad does not appear to be an overriding priority. Indeed, there is little to suggest that the EU has any effective, coordinated strategy for spreading its own founding principles to countries not on the list of potential future members. Development aid given by member states and the Commission has become the EU’s main point of leverage when confronting authoritarianism and human rights abuses around the world. But research conducted for the European Council on Foreign Relations (ECFR) shows that there is little discernible pattern linking development aid to progress on democracy and human rights; some countries with generally poor records on both these fronts have received major increases in aid while others who should be rewarded for drawing closer to European norms have seen their aid stagnate.

In recent years, the Bush administration’s aggressive promotion of its “freedom agenda” has monopolised the debate on the role of idealism in foreign policy. This so-called neo-conservative turn has been entirely discredited by the ongoing débâcle in Iraq and the failure to make any progress towards a settlement in the Israeli-Palestinian conflict. Many in Europe on both the Left and Right have simultaneously become ambivalent about, and in some cases opposed to, the concept of “exporting democracy”. They point to the successes of authoritarian regimes in China, Russia, and Tunisia as evidence that democracy may be incidental, or even detrimental, to economic and social progress. Such criticisms are occasionally mirrored in these countries themselves; in Russia, for example, the Kremlin approved ideology of “sovereign democracy” has been marketed as an alternative to the European system with considerable popular approval.

A better-informed and more candid debate about democracy’s universal applicability would be welcome. It remains a fact that the EU unequivocally endorses universal democratic principles and at least claims to attach high importance to democracy promotion. The evidence suggests that the Union’s strong words have not been matched by deeds.

An exposition of the remarkable failure of the Commission and member states to live up to their own declared ambitions in this area is necessary to stimulate and inform debate about the future development of European foreign policy.

While the offer of EU membership has long been recognised as the EU's most potent and unique democracy promotion instrument, policy-makers commonly claim that they are also committed to "rewarding" democratic reform with additional aid and economic cooperation. This is said to be central to a positive rather than coercive approach to democracy promotion. Most European governments and institutions set governance criteria that are supposed to be met as a condition of aid given to recipients around the world.

While some instances of "democratic reward" can indeed be identified, they do not appear to form a part of any systematic policy. A number of European donors, including Denmark, France, Germany (Ukraine's largest bilateral donor), and Sweden gave new aid to Ukraine after 2004's "Orange Revolution". Commission aid to Ukraine for 2007-2010 is due to be double that of 2003-2006. The Commission similarly doubled its aid package to Georgia immediately after 2003's "Rose Revolution" there, which also brought admission to the European Neighbourhood Policy.

But even in the case of these two relative success stories, local reformers continue to see European assistance as half-hearted. Many Georgians complain about having been abandoned by the EU – only Germany runs a significant bilateral programme in the country. It is well known that several member states have discounted supporting Ukraine's desire for EU membership. Even Poland says it is now pulling back from its previous role as a strong sponsor of Ukraine within the EU. And member states' aid flows to Ukraine remain modest in comparative terms.

Morocco, on the other hand, has seen its funding increase significantly despite no immediate prospect of democratic reforms in what is a slightly liberalised authoritarian monarchy. The Commission has given Morocco a €28 million reward from its Governance Facility.¹ Member states have also given considerable bilateral assistance. In 2005, France gave €200 million, Germany €62 million, and Italy €40 million, while Spain gives more aid to Morocco than to any other country.

Aid increases have gone to other decidedly non-reforming states around the Mediterranean. In 2004-2005 the Commission also provided Syria with €100 million, Egypt with €360 million, and Tunisia with €185 million. Egypt still receives large allocations from Germany (€110 million in 2005), France (€80 million), and Spain (€30 million). Spain recently signed a bilateral cooperation treaty with Egypt offering €250 million in

1. A note on sources: aid figures used in the Policy Brief are taken either from the OECD statistical database, available at www.oecd.org, or from governments' and the Commission's large number of official documents, that for brevity are not listed.

tied aid.² French aid to Syria has increased year on year since 2002, reaching €26 million in 2005. Italy has allocated increased funds to Syria, Tunisia, and Egypt since 2005 while Spanish aid to Tunisia has also increased.

French perspectives on democracy promotion in the region can be gauged from President Sarkozy's decision to receive Colonel Qaddafi on an official visit in Paris late last year; his predecessor Jacques Chirac declared during his 2003 visit to Tunis that "the first human right is to eat and from this point of view, Tunisia is far ahead of other countries in the region." This statement coincided with a noted opposition leader's fiftieth day on hunger strike.³ Prior to his election, Sarkozy had promised "rupture" with France's post-decolonisation Africa policy which is often criticised as neo-colonial and anti-democratic. But his first official visit to the continent was to see Omar Bongo, the autocratic president of Gabon and Africa's longest serving ruler, who is seen as the arch-representative of the old style of Franco-African relations. Sarkozy subsequently said on his second visit to Africa in February that he will revise the controversial defence accords between France and her former colonies without suggesting that France will adopt an active engagement in favour of democracy on the continent.

The EU has used Article 96 of the 2000 Cotonou Agreement on trade and aid to impose sanctions on ten occasions, in Côte d'Ivoire, Liberia, Zimbabwe, the Central Africa Republic, Guinea-Bissau, Togo, Guinea-Conakry, and Mauritania (as well as Haiti and Fiji, two of the EU's non-African ACP partners). In most cases, aid was suspended because of conflict rather than a lack of democracy. In the 2004 Cotonou mid-term review the EU agreed to attempt even more "intensive dialogue" with authoritarian regimes in the future before considering sanctions. In the rare instance where mainstream Commission aid has been suspended on human rights grounds, member states have not always followed suit. France increased aid to Guinea-Conakry after EU sanctions were imposed. Paris has sought to circumvent sanctions against Zimbabwe and defy the UK by fostering political contacts with Xanu-PF leaders; and the Commission has extended the scope of its nominally humanitarian aid in Zimbabwe beyond a strict definition of that term.⁴

After election-related violence in Ethiopia in 2005, in which more than 80 people were killed by Ethiopian government forces and hundreds of opposition activists were arrested and detained, European states responded in an uncoordinated and inconsistent way. A number of donors suspended or cut back aid going directly to the Ethiopian government including Sweden, the Netherlands, and the UK. But others did not. The Commission wanted to keep aid programmes going and resumed full funding as soon as

2. *El País*, 5 February 2008.

3. Press release on President Chirac's visit to Tunis, 3 December 2003, available at, http://www.elysee.fr/elysee/elysee.fr/francais/interventions/conferences_et_points_de_presse/2003/decembre/point_de_presse_de_m_jacques_chirac_president_de_la_republique_lors_de_sa_visite_d_etat_en_tunisie-tunis.1527.html.

4. All this from L. Laakso, T. Kivimäki and M. Seppänen (2007) *Evaluation of Coordination and Coherence in the Application of Article 96 of the Cotonou Partnership Agreement*, Conflict Transformation Service, Inkoo, Finland, p. 11, p. 27 and p. 41.

the government agreed to (a non-committal) dialogue with the opposition. Italy increased aid threefold in 2006. The UK just diverted its cash to unelected regional authorities which have poor records of accountability and transparency.

In 2006 the UK suspended a third phase of its aid package to Sudan, but a majority of EU member states have been reluctant to extend sanctions against the Sudanese government.

In February 2005 the Togolese Army appointed Faure Gnassingbé as Togo's president, replacing his father Gnassingbé Eyadéma within 24 hours of the latter's death after 38 years at the helm. This was widely denounced as a coup d'état. Gnassingbé was eventually persuaded to step down temporarily only to reassume power following a fraudulent election in May. The European response was again marked by a chronic lack of coordination. While the EU parliament called for the election to be held again, the Commission appeared to accept the result. France said it was "satisfied overall" by the vote while the German embassy sheltered the Togolese Interior Minister who had denounced the frauds and resigned. A parliamentary poll in 2007 was judged free and fair by EU observers though some doubts surrounded the ruling party's victory. Cooperation has now been restored, fully legitimising the country's dynastic succession.

The EU and member states also appear to be at cross-purposes in their response to Kenya's recent fraudulent election. The UK and Germany have been strongest in their criticisms of President Kibaki, raising the possibility of aid cuts. The EU as a whole has threatened visa bans and the suspension of new aid projects. But no member state has called categorically for the holding of new elections as a precondition for continuing aid and trade cooperation. The preference appears to be to back mediation efforts between the government and opposition. Indeed, on his visit, Development Commissioner Louis Michel criticised the opposition more strongly than the government.

The trend away from confronting autocrats has been replicated in Asia. After the military coup that brought Pervez Musharraf to power in October 1999, the UK agreed a freeze on arms exports to Pakistan and pushed to have the country suspended from the Commonwealth. But, after 2001, Britain restored full relations with Pakistan, agreeing new defence co-operation and reinstating Pakistan's Commonwealth membership in 2004. While not providing Musharraf with the same degree of support as the US, the EU did not threaten punitive measures during the summer of 2007 when the president removed the head of the Supreme Court, increased restrictions against opposition parties, and prevented the return of Nawaz Sharif, declaring a de facto state of emergency. The Commission delegation loosely implied that aid might be reduced if Musharraf did not shed his army uniform. European (especially British) diplomats proactively supported the power sharing deal between Musharraf and Benhazir Bhutto, prior to the latter's assassination. This strategy can lay claim to some success after opposition parties won free elections in February 2008, although the cost was of course that Musharraf himself remains president.

Prior to the Buddhist-led uprising in September 2007, a majority of states had been advocating more engagement with the Burmese junta, arguing that isolation had not worked. Only after the violent suppression of the uprising did the EU move to curtail trade in a few additional sectors dominated by the Burmese military – affecting a small percentage of an already limited amount of EU-Burma trade. While the EU arms embargo on China was retained after a long internal debate between member states – more than half of whom wanted to remove the embargo – this is the only punitive measure remaining in force against China from the EU's post-Tiananmen Square package of sanctions.

Spain insisted in 2004 on the removal of limited diplomatic sanctions against Cuba. In early 2007 the Spanish government blocked a Czech proposal for a new EU strategy paper on Cuba that would provide support for Cuba opposition groups; this proposal had won support from Denmark, Ireland, Portugal, Poland, the Netherlands, and Sweden.⁵ In September 2007, Spain's government restarted mainstream development aid that had been cut in 2003, allocating €20 million each year to the Castro regime.

The evidence indicates that European governments have rarely sanctioned regimes that engage in political repression or curtail human rights. If anything, heightened concerns about security and energy supplies have led to a greater willingness to engage with autocratic regimes in recent years. In addition, the rising influence of Russia in Central Asia, of China in Africa and of India, as well as China, across Asia, has complicated the international environment for pressuring non-democratic states to reform. In many cases, the punitive measures adopted by European governments have failed to gain the wider international support necessary for them to have a significant impact.

Funding for democracy-related projects makes up a small and often insignificant percentage of total development aid. Sweden, the Netherlands, and Denmark contribute 24%, 12%, and 13% of their aid budgets respectively to this area. The UK has the total largest spend on "Governance" of €508 million in 2006, which represents 7% of its total foreign aid spending. France, by contrast, contributes a mere €52 million and the Commission gives only 2% of its development budget to the European Initiative for Democracy and Human Rights.

Expectations attached to this political aid appear increasingly unrealistic in the absence of any coordinated European policy on democracy promotion. A belief still prevails in the EU that low scale and low key democracy projects can shift political reform in a liberalising direction, without engendering too much geopolitical tension with autocratic regimes. But our research shows that autocratic regimes seem more than able to weather the challenge posed by more cash for civil society groups and there are no obvious examples of countries where this kind of assistance has effected a major political transformation.

5. Euobserver.com, 11/05/2007.

In sum, European policies toward non-democratic states appear to be improvised and inconsistent. European leaders urgently need to develop a systematic view of the role of diplomatic and financial pressure in persuading non-democratic regimes to liberalise, and of the way this objective relates to other foreign policy concerns. A considered strategy that maximises the leverage that Europe can exert in the new global environment is essential, as is a clear narrative that can explain the basis for the policies the EU undertakes.

The EU's further strategy must be shaped by the fact that there will be no new enlargement of the Union on the scale of 2004. This removes the EU's most potent means of influencing domestic political reform; the prospect of membership was instrumental in putting Greece, Portugal, and Spain on the road to becoming stable democracies, and helped stabilise the democratic process in many of the EU's most recent member states. The EU thus needs to reassess the rewards-based logic underlying its democracy promotion efforts. A candid evaluation is required of how much more potential there really is for promoting democracy using the EU's remaining carrots of aid and trade.

Our analysis suggests that tying aid more closely to democratic reforms in countries such as Syria, Georgia, and Nepal could indeed have a greater impact. Currently, autocrats in Damascus are being perversely rewarded with fresh aid while democrats in Tbilisi feel increasingly abandoned by their supposed allies in the West. This situation should be reversed.

In addition to reassessing the rewards the EU can offer, we should also examine how effective sanctions are in holding states to account when they fail to respect democratic norms and abuse human rights. The analysis at the start of this article has shown that the image of the EU as a "pushy" or "neo-colonial" actor when it comes to criticising the conduct of other governments is hardly valid. The EU and member states in fact appear to show an ever greater willingness to accommodate dictators and despots in Africa, the Caribbean, and Asia.

There is no easy template which shows how and when sanctions work. It is clear, however, that the EU should not impose punitive measures on weak and strategically unimportant countries because they can "get away with it" while abuses by bigger fish like China, Saudi Arabia, and Sudan are deliberately ignored. There is further inconsistency even when the offenders have equally limited clout. Why do we impose sanctions on Zimbabwe when cooperation continues with Ethiopia, Kenya, and Equatorial Guinea (presided by the nefarious Teodoro Obiang Nguema Mbasogo)? The EU and member states should stop engaging or disengaging with countries in what appears to be an arbitrary fashion. A full review of policy instruments should be conducted to ensure that they are implemented more coherently.

Finally, it is worth noting that European democracy assistance remains a marginal component of development aid whose true composition and effectiveness is unclear. For

example, border controls in the southern Mediterranean, reconstruction in the Balkans, and religious dialogue with Muslim states are currently being passed off as direct support for democracy. The EU should impose a narrower definition of what qualifies as democracy aid. When the true figures emerge, this could shame governments into increasing their direct reform-orientated assistance.

LEARNING TO THROW EUROPE'S VOICE – THE NEW CHALLENGES OF THE EU'S EXTERNAL ACTION

Hugo Brady, Research Fellow, CER

Over the course of the next 18 months, following the ratification of the Lisbon treaty, EU leaders and policy-makers must:

- Make astute appointments to the posts of Council president, Commission president and High Representative for Foreign Affairs and Security Policy. The trio should compliment each other in taking forward the EU's external action.

- Make a success of the Treaty's innovations to the work of the Foreign Affairs Council.

- Decide which EU services involved in external relations will form a new external action service and how the EAS will interact with its political masters and other relevant bodies.

Arguably, the most important area of EU action affected by the Lisbon Treaty is foreign policy. If ratified, the Treaty gives the EU no new competences in foreign affairs, or defence. But it allows for a re-shuffling of existing resources and services into what has the potential to be a much more powerful structure. For decision-making and high-level diplomacy, this entails the creation of a High Representative for Foreign Affairs and Security Policy to chair future meetings of EU foreign ministers, replacing the current rotational arrangements between member states. For the implementation of decisions from these meetings, the foreign policy resources of both the European Commission and Council - and of the member states, when they agree - will be merged in a quasi-diplomatic "European External Action Service" (EAS), under the control of the High Representative.

In reality, the EU already has a diplomatic service: the external relations directorate of the European Commission and some 120 Commission delegations overseas. But the interaction between these and their counterparts in the Council Secretariat, and the member states, can be deeply dysfunctional. The lack of co-ordination between the Commission and the Council in external relations is the stuff of cliché, affecting the quality of EU policy towards Russia, China, the Balkans and elsewhere. So too is the ineffectiveness of the rotating six-month EU presidency, particularly in the area of foreign policy.

Hence the Lisbon Treaty offers an opportunity to greatly improve the EU's foreign policy machinery. It would be naïve to assume that the mere fact of the treaty's ratification will

deliver a more effective foreign policy. Change for the better in the EU's external action will depend on how the Treaty's imprecise clauses on the new CFSP are implemented, and on the personalities involved. Neither the High Representative nor the EAS will conclusively solve the problem of co-ordination. And whatever the institutional fixes or their implementation, the elephant in the room in EU foreign affairs will continue to be the political willingness of European countries to pursue common policies. But these dynamics can be favourably influenced if the technocratic rules governing the decision-making environment are cleverly set.

The most basic requirement for the success of the new foreign policy structures is that the new High Representative be a person of considerable political and diplomatic weight. Some member states may be tempted to support the candidatures of senior civil servants or a less consequential political figure to ensure a wary and low profile start to new and untested arrangements. This temptation should be resisted: Moscow or Beijing will only speak to a High Representative whom they recognise as having political clout.

ISSUES ALMOST SETTLED

The member states have already reached an informal consensus on what the future structures of EU foreign policy will look like. (However, the EU institutions themselves have inevitably become fixated by the fear of "who will eat who" under the new regime.) The EAS will not imitate the model of a national foreign ministry but will instead be a unique merger of diplomatic and crisis management structures in a *sui generis* service. Its nucleus will comprise all the desks in the Council and Commission that currently deal explicitly with EU foreign policy, as well as a rotating cadre of national diplomats chosen by a mixture of merit and geography. The EU's small military staff, and probably its intelligence monitoring unit SITCEN, will also be absorbed into the new structure. A significant portion of staff in the new EAS will be loaned from the foreign ministries of the member states themselves, although the High Representative will have the final say on appointments.

Other EU directorates such as trade, development and enlargement – connected to, but not solely foreign policy fiefs – will most likely be kept fully separate from the EAS. However, under the treaty, the High Representative will have a mandate to co-ordinate these briefs where they are key instruments in the EU's external action. Hence they will be somewhat sub-ordinate to the priorities of the EAS. And the High Representative will also have influence for the first time over areas that were formerly considered solely internal concerns: energy, environment and justice policies, given their increasing importance to external affairs. Member states have also conceded that EAS officials will be able to chair the working group meetings of senior national officials in the council, where the nitty-gritty of EU foreign policy is thrashed out in earnest.

Downstream, the Commission's 120 delegations abroad will be transformed into EU delegations, staffed mainly by EAS personnel. Other specialists, from interior ministries or

other Commission directorates, will still serve in these offices but each mission will be led by a senior EAS official in a quasi-ambassadorial role. This EAS head of delegation should take on the role formerly performed by the rotating presidency of co-ordinating the work of EU national ambassadors in foreign capitals.

QUESTIONS TO BE ANSWERED

Much has been speculated about how the unspecified relationship in foreign policy between the new permanent president of the European Council and the High Representative will work in practice. The treaty also foresees a limited external relations role for the Council president but does not stipulate a division of responsibilities with other roles. For example, it is not clear from the text whether the EAS should co-ordinate the president's work abroad or provide him with analysis. This fear is overdone. Typically, the roles of the head of government and foreign minister in external relations are miscible and worked out by practice and precedent rather than by hard and fast rules. The non-executive nature of the Council presidency means the High Representative will clearly take the lead, steering external relations at the behest of the member states. And initial planning for the EAS accepts that the service will also support not only the work of the Council president but any Commissioner abroad on EU duties. It is likely that the Council president's role in foreign policy proper will be confined mainly to formal summits and events like the leaders' speeches at the annual opening of the UN General Assembly.

A more serious anxiety exists over the most radical innovation amongst the Treaty's foreign policy reforms: the decision to allow the High Representative to chair meetings of the Foreign Affairs Council where his own proposals are being discussed. National officials, especially those from smaller EU member states, worry that this could lead to their alienation from foreign policy decision-making, despite the continued requirement for unanimity. One solution is to keep the rotating presidency system for the majority of working group meetings that deal with substantive foreign policy issues. (The Lisbon Treaty allows for EAS officials to chair working group meetings but does not preclude the continuation of the presidency system in places.) This would also lessen the contradiction inherent in the High Representative chairing the Council meetings where his proposals are being discussed.

There is also a danger that the national foreign ministries will be tempted to treat the EAS as a competitor for manpower and resources, as opposed to a compliment to their own efforts. Such anxieties would be assuaged somewhat by the development of the EAS to prioritise the development of sub-contractor functions for the member states in parts of the world where they may not be represented. These could include providing consular support to EU nationals not represented locally, sharing the expense of gathering biometric data for visas, and supporting visits of ministers from individual member states to the country in question. It could also mean co-ordinating the work of sub-groups of EU

countries on the ground on issues of relevance only to them, at the request of the group in question or the suggestion of the High Representative. The establishment of trust through the provision of such services will encourage member states to close those missions of least importance to their national interests in favour of priorities elsewhere, leaving the EAS staff to handle less critical parts of the world on their behalf. A key benefit of the EAS must be to reduce duplication of national efforts.

SOME OTHER RECOMMENDATIONS

■ The external action service should begin cautiously. The EAS will take at least five years to build before it is able to display its potential and make a proper submission for funds from the EU budget. A simple and effective merger between the relevant desks of the Council and Commission will be a substantial achievement for the first 18 months of activity under the first team presidency. More ambitious structures and roles can be developed later, such as consular support services. The member states need to exercise patience in allowing the service time to sort out mundane issues such as its administrative needs, protocol arrangements, staffing and security.

■ The current High Representative works an average of 100 hours per week. The very significant expansion of the responsibilities and powers of this role will clearly require deputies to be appointed. There should be at least two: one in the Council and one in the Commission. The High Representative should also expand the current system of double-hatted special representatives, which will form the upper tier of the EAS.

■ The EAS should have its own building separate from the Council and Commission to build its own culture, and to distance it somewhat from both institutions.

■ The High Representative should ensure that a senior EAS official should be appointed special representative on external action related to internal security threats like terrorism and mass migration. This position should also sit on the proposed Standing Committee on Internal Security, also proposed by the Lisbon Treaty as a means of joining up the work of the various EU agencies working on such issues. The EAS should keep abreast of the external effects of EU internal security co-operation and be able to feed in its own priorities from the foreign policy side, for example, on counter-terrorism. This will bolster the unique nature of the service and increase its value to foreign ministries.

■ To succeed, the EAS will need the best people. This is an obvious point but one which cannot be taken for granted. In the past, member states have sometimes off-loaded difficult or under-performing staff to the Council and Commission. Commission delegations abroad have been criticised at times for lacking staff with proper diplomatic training or crisis management credentials, and for poor political reporting. It is crucial that the

EAS avoid any such label and that it develop a reputation for excellence early on. For now, an attempt to establish common training techniques or even an EU diplomatic academy would be a dangerous distraction while the fledging service takes shape. Instead, the onus needs to remain with the member states to ensure that the service has some of Europe's most capable diplomats and for the High Representative to insist that this is the case.

EUROPEAN SECURITY AND DEFENCE POLICY – STILL AN ISSUE!

Tomáš Weiss, former Research Fellow at Europeum¹

After many decades of standing silently in the back row, the European Union has reached for a gun and decided to become one of the world's sheriffs. This is, at least, how the Union has behaved during the first years of the new century. The blue flag with golden stars has flapped over the soldier's heads in the Macedonia or in Congo, and decorated police uniforms in Bosnia, Palestinian Territories or, recently, even Afghanistan.

In spite of several initial problems, the newly formed European Security and Defence Policy (ESDP) has been launched unusually quickly. Policy analysts and European integration experts were astonished by the mere four years between the first discussions of the autonomous EU defence project and the first boots-on-the-ground operation. In contrast to the euro, where it took more than 30 years to get from the first ideas to the coins in the pocket, security and defence policy apparently had a momentum and full support of the member states. The lessons of 1990s Bosnia and Kosovo had been understood well in Brussels and in the capitals. The ESDP should become the next key idea of the European integration, taking up the baton from the internal market or the euro.

After the first intensive years, however, interest in the ESDP seems to be fading. None of the incoming group of Council presidents has identified European defence policy as one of the core priorities. It can be argued that there are many other issues that deserve attention, such as the ratification and implementation of the Lisbon Treaty, economy, energy security or the CAP revision. Moreover, the new High Representative of the Union for Foreign Affairs and Security Policy is probably going to take over the presidency in the Foreign Affairs Council (depending on when the Lisbon Treaty comes into force) and his/her representative is going to preside the Political and Security Committee. It may seem reasonable that only France, which has always been active in the ESDP, included defence policy among the presidency priorities, whereas the Czech Republic and Sweden do not pay attention to the ESDP at all. The opposite is true, however. Even the Czechs and Swedes have included the EU's role in the world, or transatlantic relations, among their priorities. Without reliable ESDP capabilities, both military and civilian, the EU will never be able to play its part on the international stage. To paraphrase the words of Theodore Roosevelt, European Union has been very good at speaking softly, but left the big stick at home. The example of the European Security Strategy suggests that if Europeans can retrieve the stick while still speaking softly, then they will go far. It would be a serious mistake to be distracted by a new treaty or the

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(necessary) agricultural policy reform. And all three presidencies should lead the way. Moreover, this trio represents the main streams in European defence thinking - France being by traditional strongly autonomous and Europeanist; the Czech Republic putting emphasis on NATO and coordinated development of the ESDP; and Sweden with its neutral status. Common initiatives might therefore find their way through the Council more easily.

This paper aims to identify the most important issues that complicate further development of the ESDP – operations, armaments, and strategic dimension – and to suggest several areas to which the forthcoming presidencies should direct their attention.

OPERATIONS

ESDP operations are the most visible part of European foreign action, the flagship of the EU's status as an actor on the world stage. The EU has already conducted many different types of operations in various parts of the world. Beside successes, such as the missions in Macedonia, there are also apparent failures. The latest one is, in all probability, the planned military operation in Chad.

Although the EU is attempting to develop a strategic approach to foreign policy action using various tools – such as strategy documents or planning cells – the planning of the operations and the political decision-making have been rather arbitrary. Only the lack of established procedures can explain the fact that the EU could approve a military operation in Chad and obtain a mandate from the UN Security Council only to find out several weeks later that the member states are not able to assign enough soldiers and equipment to the mission. The necessary institutions are in place, because the Military Committee would surely be able to provide the Council with numbers of available soldiers and helicopters, but the mere fact that the national militaries have apparently not been asked suggests that the EU does not know how to use them.

There are clear rules in the basic treaties for the relative priorities and roles of various institutions, as well as detailed rules for formal decision-making and responsibilities. There should also be a good-practice manual, similar to the Council rules of procedure, which would ensure that the presidency or the High Representative (when in office) collect all necessary information before the Council takes a decision.

A similar problem applies to the conduct of operations after they are launched. The European Union's key added value compared to NATO or the UN is its ability to conduct military and civilian operations under the supervision of a single body, the Council and its Political and Security Committee. The EU should be able to react in a flexible way according to the situation in the theatre, and using both military and civilian forces.

However, the connection between the civilian and military has been somewhat theoretical. The EU cannot conduct a truly combined operation because there are separate chains of command with different operational cultures. Moreover, whereas civilian operations are paid from the EU budget, military operations are covered by the participating member states. It would require a change of the treaty to adapt the budgetary rules, which is impossible at the moment.

So far, the EU has conducted both civilian and military operations in several regions, but always as separate mission, each with its own budget, chain of command, and legal basis. Even if it is necessary to keep the operations separate, they can still work together and coordinate their moves. As the experience from the past missions suggests, the cooperation at tactical and sometimes even operational level works rather well. However, this has mostly been due to the day-to-day nature of problems on ground – which forced the participating personnel to consult and coordinate with each other – rather than a product of established and mandatory procedure. Moreover, at the strategic level, in Brussels, the cooperation and consultation has always been poor, especially between the Council and the Commission, which plays an important role in civilian reconstruction.

Clear procedures should be developed on how to maintain coordination at all levels of operation planning and command. Even if the missions must remain separate for years to come, they could at least get closer to the civilian-military ideal that the EU has aspired to.

ARMAMENTS

Even if clear procedures are drawn up, the EU needs to invest more in defence equipment. Otherwise it will never meet expectations and will remain incapable of taking over bigger operations, as the Chad mission has clearly shown.

Article 296 EC largely excludes defence equipment from the scope of the treaty. The European Commission is not allowed to supervise competition in the sector and governments are thus free to buy wherever they choose to. Usually they prefer domestic companies to foreign ones. However, such purchases help to balkanise the defence equipment market. Small national companies are not pushed to operate more efficiently; instead they are allowed to sell poorer quality equipment for a higher price. Moreover, when used in international operations, such as ESDP missions, such military equipment is not fully substitutable and interoperable. Above all, if pushed to undergo restructuring, European defence industry would be more capable of competing on the world market with large, mostly US, companies. It seems like a win-win situation: competition would save public money, provide European militaries with better equipment, allow for better interoperability and help European companies compete in the world market.

Nevertheless, member states have been reluctant to abolish the exception of Article 296. Indeed, the Lisbon Treaty has preserved the article without any changes (as new number 346). There are several reasons why governments have not opted for what seems *a priori* to be a win-win situation.

Firstly, economic and social issues have doubtless played a role. The restructuring of the European defence industry may help the sector in the long run, but politicians tend to choose a short-term perspective. And in the short run, restrictions on state aid would cause serious problems to the inefficient companies: some of them would go bankrupt and unemployment would probably rise.

Secondly, and more relevantly, defence procurement can be a very delicate issue, and must be subject to extensive confidentiality. Article 296 (or 346) has provided the necessary space for the member states to prevent disclosure of information that could threaten national security.

Finally, procurement is usually not the only part of the business. In order to use the equipment, national armies need to secure a supply of spare parts, consumables (such as ammunition) and services. It is much easier to ensure that one's domestic company provides everything necessary than to rely on somebody from abroad.

The European Defence Agency (EDA) has tried to find a compromise between the advantages of the common market and the legitimate demands concerning national security. The approved code of conduct and the electronic list of defence-contract opportunities will allow for slightly more competition across borders. In exceptional and well-argued cases, member states are allowed to deviate from the standard regime, providing them with necessary room for manoeuvre. However, such exceptions also create an opportunity for arbitrariness and reduce the potential advantages of the system. Above all, the openness of the contract does not necessarily mean that the member states will choose the same product and thereby ensure a higher degree of interoperability.

Further steps are thus necessary. Some possibilities of member-state cooperation have not been fully explored. Although the EDA has been trying to identify suitable options, the member states have not worked together enough on common purchases. This does not only mean joint research and development, but also, and above all, buying existing equipment in larger amounts. This would not only allow for lower unit costs, but also provide for better interoperability during missions, supposing that the national forces were equipped identically.

In 2010, the last Headline Goal will be due and we can expect many of the targets to be missed. New capabilities cost a lot of money and the European states need to save wherever reasonable. Harmonization of demand should be moved higher up the agenda. It should appear in official EU documents, such as European Council conclusions, as a

relevant policy option available now. It will take time to get the member states used to the idea. In order to make the harmonization of demand one of the leading topics of the future Headline Goals, the presidency should put the issue on the table whenever possible and connect it to lessons from conducted operations.

STRATEGIC CHOICES

In order to start preparing new Headline Goals (civilian as well as military), it should be clear how the EU reads the security environment. In December, it will be five years since the European Security Strategy was adopted. The document has been very successful at defining Europe's distinct way of thinking about international relations and security. Moreover, it has influenced all EU foreign-policy documents, as well as the strategic papers of member states. This way, somewhat slowly and quietly, the states' strategic cultures may be moving closer together. Ultimately, it is the only way to prevent rifts among member states, such as the one over Iraq in 2003. This process will take long time, however, as proven recently by the example of Kosovo and the EU's inability to reach a common position on the subject.

Much has happened since 2003, including major terrorist attacks on European soil, a change in Russia's attitude to Europe, and power shifts in the Palestinian Territories. Strategic policy should be revisited and, even if most of it does not change, the discussion on strategic choices among the member states should allow for better mutual understanding and more fruitful ideas while drafting new Headline Goals during 2009.

CONCLUSION AND RECOMMENDATIONS

The European Security and Defence Policy should be one of the priority issues that the forthcoming presidencies of France, the Czech Republic and Sweden focus on. All three countries are interested in the EU's role in the world, but without an effective security and defence policy the EU will not rid itself of the image of a political dwarf. The Lisbon Treaty will change little in the area, but several critical problems remain and the presidencies should deal with them.

At the highest level, the EU already has all the necessary institutions. The treaty clearly states who bears the political responsibility and who decides. In practice, however, the EU does not know how to make use of the institutions at its disposal. The same is true not only for the initial phases of an operation, but also for coordination of the whole conduct of civilian and military missions.

More and better capabilities are the prerequisite of a capable European Union. Due to political and technical constraints, more competition in the defence equipment market

will be difficult to achieve. But harmonization of demand offers an opportunity to save public money and enhance interoperability of European forces.

Last but not least, the development of European strategic culture should continue. The European Security Strategy should be adapted to the new environment and serve as the basis for new Headline Goals that define the development of the ESDP in more detail.

- The presidencies should keep the ESDP high on the agenda. European Security Strategy should be revisited in order to take account of the developments of the last few years. On the basis of the revisited strategy, the work on new Headline Goals should start during 2009.

- Harmonization of demand should be given clear political priority in the new military Headline Goal, raising awareness of this option among member states and their citizens.

- A detailed code of conduct on the initial phase of an ESDP operations should be drawn up, providing for a clear order of consultations and decisions and, ultimately, for a realistic mission concept.

- A detailed code of conduct on coordination at all levels of command and planning should be drawn up. This would ensure continual communication between civilian and military segments of the ESDP as well as the Commission.

REASSESSING THE EUROPEAN SECURITY STRATEGY – BEYOND 2008, AND BEYOND ESDP

Antonio Missiroli, Director of Studies, EPC

Perhaps a bit surprisingly, the December 2007 European Council “invites the Secretary General/High Representative [for CFSP], in full association with the Commission and in close cooperation with the member states, to examine the implementation” of the European Security Strategy (ESS) adopted in 2003, “with a view to proposing elements on how to improve the implementation and, as appropriate, elements to complement it, for adoption by the European Council in December 2008” (§ 90 of the Presidency Conclusions).

Four years after December 2003, Javier Solana is now asked to revisit the ESS and come up with an overall assessment. The Presidency Conclusions do not request an update or a rewriting of the Strategy: the emphasis is entirely on its implementation “in the light of all the developments which have taken place since, in particular the experiences drawn from ESDP missions”. And the whole exercise is aimed at putting forward “elements on how to improve” and possibly “complement” the Strategy’s implementation.

A JOB WELL DONE

It will nevertheless be difficult to avoid reassessing its analytical grid and tentative prescriptions entirely. Nor would it be right to do so, even though the ESS is a policy document that has withstood the test of time unusually well. Launched in early May 2003, during the final days of the Iraq war, initially it was a fence-mending effort both inside the EU and across the Atlantic after the harsh divisions of the previous months. But the Strategy rapidly became a consensus building exercise for the enlarged EU.

The drafting was carried out in two phases: a first version was presented by Solana to the June 2003 European Council, which “took note” of it and asked the SG/HR first to broaden the discussion, *inter alia* through a series of workshops, then to come up with a final text. This was eventually approved in December 2003 with the general title, “A secure Europe in a better world”.

Arguably, the ESS is one of the best-written EU policy texts ever (perhaps alongside the Laeken Declaration of December 2001): concise but not superficial, and neither too self-congratulatory nor necessarily based on the lowest common denominator. It was prepared by a close group of aides to Solana but without ever being submitted to the

COREPER or the Political and Security Committee (PSC): the ESS was never “negotiated” through the usual intergovernmental channels.

Moreover, after its approval, Solana sternly resisted calls to translate the Strategy into a series of specific “action plans” for future implementation: in his view, the ESS had to remain a set of guidelines for possible action, not a prescriptive operational document. For some time, at least until the signature of the Constitutional Treaty in October 2004, the Strategy was even occasionally quoted in CFSP Joint Actions as a sort of “soft law” basis for launching ESDP operations whose scope went beyond the original “Petersberg tasks” enshrined in art.17 of the Treaty.

Yet the ESS is not only about ESDP. In a way, it is not even a “strategy” – a term that is often abused in current EU practice and parlance. It has become the closest thing to a European foreign and security policy “doctrine”, shaping the Union’s approach to a number of diverse developments and contingencies and also proving an effective tool of EU public diplomacy. In addition, as a doctrine it has lost little of its relevance.

FIVE YEARS LATER

While the original introduction to the ESS may sound slightly outdated now, the “key threats” and the “global challenges” identified in 2003 have not changed significantly, undergoing only marginal shifts in emphasis.

Regarding global terrorism, the ESS pointed out that the threat was already well present on European soil (“Europe is both a target and a base”, it stated). Ever since, especially after the Madrid and London bombings, we are all much better aware that home-grown terrorism is a peculiar European phenomenon that requires specific responses - including finding an acceptable and sustainable balance between security and liberties, both personal and collective.

The struggle against the proliferation of weapons of mass destruction (WMD) is now less focused on North Korea (let alone Iraq) and much more on Iran’s nuclear programme and the regional domino effect it could trigger. And while the risk of “loose nukes” seems less present, the possibility of “dirty” bombs carrying lighter, “portable” WMD has anything but disappeared.

Regional conflicts (old and new) are still clearly visible on our radar screens, from the Balkans to the Middle East, and so are the “frozen” ones in and around Europe. Even previously internal conflicts now risk spreading to neighbouring areas – for example in Afghanistan itself, Darfur and the Horn of Africa.

We tend now to speak less of state “failure” as such and more of state “fragility”, a condition quite common and recurrent on the international scene. Contrary to “failure”,

which is rare and often irreversible, “fragility” permits – and even requires – timely and proactive “preventive engagement”, as also advocated in the ESS.

One-third of EU citizens (according to Eurobarometer) now indicate organised crime as the number-one security and policy priority. Its presence is felt in a growing set of activities related to the normal functioning of our societies, from banking and finance to services of public utility.

Furthermore, Europe’s overall energy dependency has increased in terms of both perception and reality, underlined as it has been by a series of regional crises on the continent itself and by the dramatic rise of oil prices worldwide. Energy security, in other words, has turned into a major problem that will affect our external relations.

In an increasingly globalised world, Europe’s demographic challenge is becoming ever more serious and also more widely noticed, raising the demand for shared management of migration flows and better integration of the immigrants.

Climate-related stresses have also materialised more frequently, translating into such diverse phenomena as floods, droughts, and forest fires. Taking a wider view, climate change and global warming may also aggravate the struggle for natural and energy resources (including the few remaining untapped reservoirs); deplete food and fish stocks; and above all destabilise vulnerable regions and ill-governed countries – thus generating new disputes and conflicts, reinforcing migratory pressures, and affecting more broadly the international system.

Other “wildcards” have become apparent lately, from the SARS and “bird flu” scares to the Asian tsunami of December 2004, from the intrusive cyberattacks by foreign hackers in Estonia to the global financial disruptions triggered by rogue traders. More natural and man-made emergencies – often transcending national (and EU) boundaries – may be in the offing.

THE HARDER THEY COME

The “strategic objectives” set in 2003 still hold too, but we are much more aware now of the difficulty of achieving them.

Much as it is not formally or primarily a challenge for the EU proper, Afghanistan is proving hard to tackle, and not only in military terms. Defining “success” in Kabul is a demanding task, and it reverberates on other crises elsewhere. The “quick in, quick out” approach that initially characterised such operations is no longer valid: we must all brace ourselves for the long haul (“quick in, long in”), which is hardly popular with the public or sustainable with limited capabilities.

“Building security in the neighbourhood” is a moving target. In the Balkans, for instance, the Union’s ‘soft’ (or ‘transformative’) power is no longer as effective as it once was elsewhere. This is in part due to the doubts that have arisen within the EU itself over the enlargement process, which have in turn weakened its hand in dealing with the countries of the region: “conditionality” does not work if it is not associated with a credible commitment to integrating them into the Union sooner rather than later. At the same time, the expansion of the Union is clearly evolving into a “*member state-building*” exercise that may, in turn, require a new approach to conditionality as we know it.

Moreover, Russia’s increased assertiveness (coupled with Europe’s occasional disunity in dealing with it) has made addressing “frozen” conflicts ever more problematic, while the Union’s Mediterranean policies – in the framework of either the Barcelona Process or the European Neighbourhood Policy proper – seem to have come to a critical point and certainly to be making little headway.

“Fragility” in the wider EU periphery, power politics in the east, instability in the south, and growing competition for resources worldwide: this is the broad-brush picture of European security in 2008. We may add the growing interconnectedness between the international and domestic/societal dimensions of it, making this policy area quintessentially “inter-mestic”.

Last but certainly not least, the “effective multilateralism” advocated by the ESS is proving to be quite a challenge, in part also because it is seen at the same time as a principle, a means, and an end in itself. The Union put up a good showing on the occasion of the crisis in Lebanon in 2006, but the issue of Kosovo is now looking almost intractable in this context, as effectiveness and multilateralism seem hardly compatible with one another (albeit for reasons that do not necessarily depend on the EU). Acting on Darfur, too, presents comparable dilemmas. And, in a different policy domain, the Doha negotiations are stuck and the multilateral trade framework appears increasingly challenged.

This is not to say that “effective multilateralism” is unattainable or even that it is wrong. On the contrary: for the EU, it may well prove as much a necessity as it is a choice. The international environment has evolved since 2003, with a rising number of players to be taken into account: old and new, and all strongly sovereignty-minded and focused on short-term gains. The resulting “competitive interdependence” leaves the EU quite vulnerable. Delivering results becomes harder and harder, even when the goals are fairly reasonable and realistic, and even when the EU and the US broadly agree on them – which was not a foregone conclusion in 2003.

This is also why the linkage between the quest for “effective multilateralism” and cooperation with possible “strategic partners” needs to be better articulated. In what was arguably its weakest section, the ESS mentioned among these “partners” (in questionable

order and company) Japan, China, Canada and India – a list that, if at all necessary, requires some adjustments.

The Union and/or its main member states keenly participate in “mini-lateral” fora related to specific crisis situations: from the G-8 itself to the Contact Group on the Balkans, from the Middle East “Quartet” to the “5 + 1” format on Iran. Some of those “strategic partners” matter more in some configurations than others, and additional actors may play a role in specific contingencies. “Working with partners” needs therefore to be turned more explicitly and consistently into a vehicle for achieving effective multilateral solutions and also for giving the EU the necessary visibility and clout.

OPPORTUNITIES AND CHALLENGES

The “policy implications” underlined by the ESS remain valid too.

For one, the EU has definitely become “more active” on the international scene in general and in crisis management proper. What was still a promising start in late 2003 has since blossomed into a wide array of diplomatic initiatives and, above all, ever more numerous and demanding overseas missions. If some of these were largely symbolic and (understandably) intended to wave the EU flag and build a tentative *acquis opérationnel*, the latest ones – the civilian mission in Kosovo and, to a lesser extent, the military one in Chad – seem to belong in a different league altogether.

The EU is also becoming “more coherent” in the conduct of its external policies. A few hiccups aside (in the preparatory phase of the 2005 mission in Aceh/Indonesia or in the legal dispute over small arms), the Council and the Commission seem to have found a workable *modus vivendi* and *operandi*, especially within the PSC. The basic intuition behind the ESS – that crisis management must be integrated and comprehensive and not exclusively or primarily based on the military dimension and the use of force – has been vindicated by the experience of the past few years. For its part, the Lisbon Treaty creates a new “architecture” for foreign policy-making that is expected to increase coherence and effectiveness in Brussels and outside the Union – although its full implementation may take time.

Coherence does not and will not depend solely on the two sides of Rue de la Loi. The behaviour of the member states must also be looked at (for instance, when it comes to selling military equipment to certain countries). And similar considerations may apply to other international players – “partners” as well as organisations – involved in crisis management alongside the EU.

Whether the EU is also becoming “more capable”, however, remains an open question. Institutional capabilities have improved since 2003, and so have operational ones: lessons have been learned and applied to new contingencies. More member states now

seem willing and able to put up forces for common operations. Still, the overall “pool” of EU capabilities has hardly increased, and some countries are now reaching a critical point in terms of overseas commitment and military overstretch.

The readiness to resort to force in peace support operations remains uneven across EU countries. This may ultimately create a two-tier system that, in turn, could raise sensitive questions concerning internal solidarity and burden-sharing. This might not undermine common policies, provided appropriate arrangements are made in terms of common decision-making and funding. More EU solidarity is needed, and not only because it is required by a new clause in the Lisbon Treaty.

Finally, evaluating European capabilities is also about assessing how many are needed for what purposes, and opinions still vary within the EU. This applies also to the willingness to resort to ‘negative’ diplomacy (sanctions and penalties) whenever useful and necessary. Expectations tend to be either too high or just too diverse: they need to be managed, since they cannot all be fully met.

On the whole, however, devoting more resources to relations with the outside world should be an imperative for the entire EU, considering how much less relevant our continent is expected to be in 20 years’ time. By then the EU will simply no longer be able to afford to navel-gaze while spending two thirds of its common budget on internal policies – because its share of world population, trade and GDP will be a fraction of today’s. Europe’s relative demotion will thus have to be balanced out with stronger global presence and self-promotion. The possible “elements to complement” the ESDP should take this factor into account.

LOOKING TO THE (NEAR) FUTURE

Interestingly, Solana’s planned report will almost coincide with the 10th anniversary of the St Malo Declaration (3-4 December 1998), with which France and Britain launched what we have come to know since as ESDP. At that moment, perhaps, Nicolas Sarkozy and Gordon Brown will both feel ready to walk in the footsteps of their predecessors and inject new momentum into European crisis-management ambitions.

Moreover, St Malo’s 10th anniversary and Solana’s report will fall in the period between the US presidential elections and the inauguration of the new administration. There may not be a better moment to send a few messages across the Atlantic, thus reconfiguring EU-US relations on a new basis after the last few stormy years. For their part, Americans now know that they can still “go it alone” but also that they cannot “do it alone”.

On top of that, the new ESS exercise may end up being run in parallel with the possible redrafting of NATO’s Strategic Concept. The current one dates back to March 1999,

i.e. before Iraq, before 9/11, even before the Kosovo war. If the Alliance decides to proceed with a comprehensive strategic reassessment on its part, it would be important to use it also as a bridge-building exercise with the EU – provided neither side claims primacy.

Finally, Solana's report is due to precede by a few days the likely entry into force of the Lisbon Treaty. It could therefore come to represent the beginning, rather than the end, of a broader reassessment of the goals and means of European foreign policy; this exercise might extend into 2009 and the implementation of treaty provisions. If so, it could also turn into a team-building exercise for the new EU leadership to be appointed by October 2009.

Such a second stage could also involve the relevant services of the Commission, which are crucial for both a more comprehensive foreign policy (including the various external ramifications of other common policies) and a more integrated security policy, including its internal dimension. The final report, possibly due in late October 2009, could thus become a regular end-of-term exercise for the future High Representative/Vice-President.

In conclusion, revisiting the ESS may entail some recalibration and minor adjustments, plus some new "elements" for better implementation. Its title could usefully be amended as "*A stronger Europe in a better world*", thus stressing the need for a less defensive, self-centred and inward-looking approach. Even the Union's most assertive member states have come to realise that they are each weaker when acting alone, and weaker still when sharply divided among themselves: *l'Union fait la force*, indeed.

The nexus between common *values* and common *interests*, however, may require fresh attention: all too often these disconnect, and not only between the national and the EU level. Our shared values need to be woven into our shared interests and these, in turn, need to be better articulated and brought to fruition. Values can be considered as guidelines on the best ways to pursue interests, not substitutes for them – while interests do contribute to affirming values.

By the same token, *processes* need to be geared more explicitly towards producing *outcomes* rather than being seen as ends in their own right. Whether they be intra-EU or transatlantic, multilateral or "mini-lateral", they must bring tangible results within reasonable time frames.

Finally, the increased *presence* of the EU in the world should better translate into comparable *influence*, which lately has not always been the case. Tomorrow's world will require this – and so does today's Europe.

TIME TO STOP DITHERING ON EUROPEAN DEFENCE

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Few items on EU agenda will experience as much flux over the next 18 months as defence. Few offer such good opportunities for dramatic and substantive improvement of Europe's ability to shape the global environment. France is in a unique position to resolve Europe's conundrum over whether defence institutions are more important than capabilities. It can also take significant new steps to improve EU-NATO relations, and to make civil-military co-operation more effective.

Since its inception in 1998, the European security and defence policy (ESDP) has been plagued by clash between its two key driving forces: the desire to see less US influence in Europe, and the simultaneous fear of less US interest in Europe. Each impulse drives EU defence policy – such as it is – in different directions. Fear of less US interest in Europe drove the UK, the Netherlands, Denmark and others to focus on developing own capabilities while keeping a strong link to the US, through NATO. The desire to see less US influence in Europe historically drove other European countries like France or Belgium to want to challenge NATO by building alternative European military structures, or by launching “flag-planting” EU missions in Africa and elsewhere. Neither instinct dominated – the EU is too complicated a beast to produce a clear outcome – but both instincts, in their own way, contributed to building a strong Europe of defence. It has not been as friendly to NATO, or generated as many capabilities, as the Atlanticists would have liked it to. And it has not become the sort of un-NATO that some in Europe would have preferred.

This sort of “muddling through” worked fine for several years. Europe, as the 2003 security strategy acknowledged, was free from conventional military threats, and it seemed to be making headway against non-conventional threats, too, by fighting them in their places of origin, like Afghanistan. But by 2008 the sense of comfort has largely evaporated. Russia's territorial claims in the Arctic and its military over-flights of EU member states' territory put the peer-power threat back on the agenda. The NATO-led (but heavily European) mission to Afghanistan, now in its seventh year, is still struggling to establish control over the country's territory. And the EU's own mission to Chad has been plagued by unwillingness and inability of EU member states to contribute the necessary equipment. Europe suffers from a dearth of military capabilities to deal with the demands of an unstable security environment. Its militaries stagnate while the need for peacekeepers has skyrocketed. In 1998 the UN deployed 14,000 peacekeepers worldwide but by 2006 the figure was over 70,000.

IMPROVING EU-NATO RELATIONS

These pressures are pushing Europe to shift the emphasis away from institutions towards capabilities. France leads the way. President Sarkozy broke away from the strictly EU-orientated policies of his predecessor by signalling in late 2007 that he favoured French reintegration to NATO's permanent command structures. In doing so, he opened the possibility of ending NATO-EU tensions.

While the membership in both institutions is nearly identical (21 of the 27 EU member states are also in NATO), the two barely talk. Worse, they compete for the member states' defence money, and for the attention of others. In 2005 they could not agree on who should support the African Union's mission in Sudan, so each organisation ended up running its own operation there. Occasionally, the rivalry between the EU and NATO led the member states to sabotage much needed equipment purchases, like NATO's plans to acquire a fleet of C-17 transport aircraft (which France long opposed).

This competition leaves everybody worse off. Member states divide their scarce defence euros between the EU and NATO. Both institutions have given their member states a long "shopping list" of new equipment needed for military operations (the so-called "capability goals"). But the EU and NATO have failed to reconcile those lists. Each organisation is thus asking the same cash-strapped governments for slightly different things. Not surprisingly, when either institution tries to put military force in the field, it invariably finds that its member states, torn between competing NATO and EU requirements and desperately short of defence money, do not have enough troops and weapons.

President Sarkozy's offer of return to NATO's military command by itself does not address these problems. But it changes the politics of European defence. Sarkozy is essentially telling the rest of Europe that the EU and NATO should stop squabbling and get on with the job of building much needed new military capabilities.

For the French President to succeed, a number of things will need to happen. Britain must seize the opportunity presented by Sarkozy's initiatives. Britain and France form the undisputed core of European defence. They are the main providers of troops, and the largest producers and buyers of military hardware. The two countries are alone in Europe in having a truly global, strategic, expeditionary mindset, and the forces to back up their ambitions. They are both deeply unhappy about the state of Europe's collective military might, and keen to nudge other member states towards increasing their defence forces.

But France and Britain also remain divided over whether the EU should have its own permanent military planning capability, as France insists. And Paris has also linked the creation of such headquarters to its return to NATO's integrated command. If the two fail to break the impasse, the hopes for better EU-NATO relations could evaporate.

Britain fought the EU operational headquarters tooth-and-nail when the idea first surfaced, in 2003, at the infamous “praline summit” in Belgium. The British government argued that NATO already possesses a first-rate headquarters, SHAPE, which is available to the EU on request; that several member states, including Britain, France and Germany, have their own headquarters that are suitable for managing EU military missions; and that building a separate EU operational planning cell would be a frivolous waste of money. In 2003, the debate ended with a compromise, under which the EU assembled a small team of military planners. They can only be used if NATO or national planners are not available. They are also tasked with planning joint civilian-military operations, rather than purely military missions.

France would now like to make this temporary planning cell into a permanent one. This is galling to UK defence officials. But a compromise should be possible. The alliance should be allowed to expand the way it plans military operations, and its planning should be made to look more like the European Union’s. Meanwhile, the EU’s operational planning headquarters should be brought into the closest possible co-operation with NATO’s (reformed) planning process.

The reasoning is simple: as things stand, the EU and NATO member states, when considering a new operation, have to choose between using a miniscule group of planners with both civilian and military expertise (the EU’s planning cell), and a big, state-of-the-art, military planning cell (SHAPE). But what both of them really need is a robust and civilian-military capacity. And that means also giving NATO the possibility to do joint planning with non-military organisations.

Some NATO countries, including the UK, have long argued that NATO should be allowed to plan its operations in conjunction with non-military bodies, such as the EU, but possibly also the UN or even non-governmental organisations. The argument makes perfect sense: every single military operation that NATO has carried out in the past decade has involved important elements of nation-building. And that is a task for policemen, judges and administrators, as much as soldiers. But NATO war planners are currently not allowed to involve civilian organisations in drafting their plans, even though those plans often include provisions for civilians to be deployed alongside NATO’s military forces. The absence of joint planning between the military and the civilians diminishes the chances of NATO succeeding, and it jeopardises the safety of civilians working alongside NATO troops in areas of conflict.

France has opposed the idea of joint civilian-military planning at NATO, in part for doctrinal reasons. The Chirac government feared that allowing NATO to co-ordinate with civilians would undermine the EU’s status as a unique provider of both military and civilian resources. But NATO is not planning to start commanding thousands of police officers; it merely wants to be able to co-operate with those organisations, like the EU, that have police and judges and other civilian expertise at their disposal.

So France should be ready to strike a simple agreement with the UK. The EU should build permanent planning headquarters if and when France allows NATO planners to start working with civilian organisations in planning NATO military operations. The EU and NATO planners should also be required to work closely together from the earliest stages of operations, on the assumption that both institutions are likely to get involved. That is already the case in Afghanistan, Bosnia and Kosovo. NATO and the EU have already exchanged small liaison cells, but they should also consider sharing facilities. Co-location of NATO and EU planners would make co-operation easier, foster convergence of mind-sets and approaches, and facilitate intelligence sharing. This approach would strengthen both the EU and NATO.

TURKEY AND CYPRUS

For NATO and the EU to start fully co-operating on defence, Turkey will have to drop its opposition to closer ties between the two institutions. France and Turkey have historically worked in a perverse harmony, with France resisting closer EU-NATO ties from its EU perch and Turkey doing the same from its chair at NATO's table – and each for different reasons.

Turkey's argument against closer military links with the EU rests on a technicality (namely that two non-NATO EU member states, Cyprus and Malta, do not have an agreement with NATO on protecting classified information). But it is widely understood that Turkey has opposed close NATO links with the EU as a way of punishing the Union for having admitted divided Cyprus while dragging its feet on Turkey's membership application.

As long as Turkey's obstinacy in NATO was balanced by France's stubbornness in the EU, Ankara had little reason to shift its stance. But the French decision to stop blocking EU-NATO ties has now isolated Ankara and put pressure on it to rethink its opposition.

It will be difficult to entice Turkey to agree to closer EU-NATO ties, but both Turkey and the EU have a lot to offer each other. Turkey wants to be a part of Europe's defence policy. Its army is very capable, and is Europe's largest. At the same time, Europe does not have sufficient troops to fulfill all its peacekeeping commitments, and it is already relying on Turkish help for some of its operations. Turkey also wants to be a part of the European Defence Agency (EDA), the EU body that works to pool procurement and production of military hardware.

France should use its presidency to bring Turkey into the work of the European Defence Agency, and Turkey should also be given a place at the table when Europe discusses ESDP operations. Europe would benefit by securing better access to Turkey's military resources. Turkey, whose EU membership bid has stalled recently, would welcome a

closer relationship with the EU. And, as a contributor to EU operations, it deserves a say in shaping Europe's security and defence policy.

As a known sceptic of Turkey's EU membership, France has a unique credibility when it comes to convincing other reluctant EU member states to agree. But the French establishment seems to be of two minds on the ESDP-Turkey relationship. Its officials have argued that if Turkey is offered access to the EDA other non-EU countries would insist on one as well, and the meaning of EDA would be diluted. But that is not a very convincing reason: the EU already has all sorts of special relationships in a number of areas. NATO, too, has a special arrangement, not dissimilar to associate membership, with Russia and Ukraine. A closer Turkey-EDA relationship should be possible.

If necessary, Britain should help facilitate such deal. It should be ready to make concessions to France on EDA's budget. UK defence officials have kept the EDA on extremely short financial leash, opposing multi-year budgets and keeping each annual allocation low, much to the ire of French defence officials. But if France needs an extra incentive to offer Turkey associate membership, and if there is a realistic hope of completely de-blocking EU-NATO co-operation, the UK should be ready to relax its policy on EDA budget.

BEYOND EU AND NATO: IMPROVING CIVIL-MILITARY CO-OPERATION

EU governments must also continue to develop their civil capabilities. Judges, police, administrators and aid workers have become an important part of crisis management; all of EU's foreign missions have involved a strong civilian component. The EU also prides itself at being a "comprehensive power", able to bring both military and non-military resources to crisis areas.

But in reality, civil-military co-operation on the ground tends to be difficult. The challenge in deploying civil capabilities is basically two-fold: it is far more difficult to find trained and available civilian personnel than soldiers, and the two often have trouble working together in the field because of different institutional cultures and habits. For soldiers and civilians to co-operate better, the national governments need to break down the institutional barriers between the ministries of defence, foreign affairs, interior and development (and other relevant agencies). Some countries like the UK show the way; top UK officials for defence, foreign affairs and development meet regularly to discuss ongoing operations and how each department can contribute. More, and more intensive, contacts of this sort are needed in national capitals.

Also, finding enough policemen for EU operations can be difficult. They are already busy at home, and governments cannot spare too many police for international deployments. Most civilian agencies are also not geared up for deploying their people abroad. Unlike armed forces, police or judges operate by laws and regulations, which assumed

that they would spend their careers at home. When the EU wants to deploy civilian forces, it is forced either to take people out of permanent jobs, or to recruit those with the right skills but without a job. As a result, the EU often deploys less than its best.

The EU could help on both counts. It could advise member states on how to improve co-ordination between civilian and military agencies, and on how to ready civilian agencies for deploying their personnel abroad. France should use its presidency to propose the creation of a small EU advisory team, which would impart to national governments the lessons in civil-military co-operation learned from ESDP missions abroad. And it could also spread best practices in the EU on drafting rules for the deployment of civilian personnel abroad. NATO has a similar process in place; its defence planners regularly visit the member states' defence ministries to do a health check and advise on where and how improvements could be made – all this, of course, on a strictly voluntary basis.

CONCLUSIONS

Intellectually, most Europeans understand the seriousness of new threats, and the need for significantly improving Europe's defence capabilities. But the mixed roots of EU defence – to some EU member states it is mostly a political gesture, to others it is a must-do military initiative – held back progress on developing new capabilities.

But the more missions the EU carries out under its flag, the more substance EU defence acquires. Already the EU has more than twenty ESDP operations. With each successful mission the need to prove Europe's defence prowess through creation of new institution decreases. With each new operation, the capability shortfalls in Europe's defences become more obvious.

France is well positioned to address the deficit. President Sarkozy's new approach to European defence promises to end damaging EU-NATO squabbles, which alone could unlock new defence resources. Other opportunities like improvements in civil-military co-operation beckon. During its presidency, France is in a unique position to agree the political bargain necessary to settle the remaining institutional questions between the EU and NATO politically. The subsequent presidencies of the Czech Republic and Sweden should take advantage of the favourable political climate produced by such an accord to urge real delivery on member-state promises to address Europe's shortfalls in military capability.

NEW DEAL – BOOSTING EUROPE’S ENGAGEMENT IN AFGHANISTAN

Daniel Korski, Senior Policy Fellow, ECFR

When French President Nicolas Sarkozy takes over from his Slovenian counterpart at the beginning of the France’s Presidency of the European Council, he will take on an impressive burden. The EU has to manage a military mission in Bosnia-Herzegovina, a police and justice operation in Kosovo, and a military deployment to Chad.

Of all the peace keeping missions, the most important for Europe is NATO’s Afghan mission. But in spite of a major European commitment – including billions of Euro for reconstruction, and thousands of troops from EU countries deployed – stabilising Afghanistan has never been high on the EU’s agenda. A damaging split has opened in the European ranks over where national contingents may or may not fight. Germany, Italy, and Spain refuse to send their troops to southern Afghanistan where fighting against the Taliban is heaviest. Only Britain, Denmark, the Netherlands, Poland, Estonia and Romania are prepared to risk their forces in these areas.

Increasing violence and instability in Afghanistan have made it all the more important that the EU stays the course. Hamid Karzai’s government is largely powerless outside of Kabul; the US Director of National Intelligence Michael McConnell has told Congress that the Afghan government controls under a third of the country, while the resurgent Taliban controls a good tenth.

Most analysts agree that outright military defeat of the Taliban is now impossible. This means that a settlement offering some of the insurgents financial rewards and a share of constitutional power to entice them to switch sides is unavoidable. Yet President Karzai shows little sign of moving towards a political approach to resolving the conflict. Indeed, he expelled two diplomats in December 2007 for allegedly negotiating with the Taliban, before vetoing the appointment of Paddy Ashdown as UN envoy.

A swift and successful end to the conflict is now out of reach; even optimistic scenarios foresee an international presence being required for years to come, with fighting continuing, albeit on a reduced level.

However, there is some cause for hope. February’s election in neighbouring Pakistan saw extremists lose support in the border provinces which the Taliban have used as a staging post for incursions into Afghanistan. The long overdue appointment of a new UN envoy – the experienced Norwegian Kai Eide – also provides an opportunity. But turning

the situation around will require changing the way the international community operates. In this, Europe can and must play a leading role.

France's hosting of an international conference on development aid for Afghanistan in late June and an increase in the number of French troops gives the Elysée an opportunity to drive the EU's policy in Afghanistan. France should help prepare Europe for a renewed international commitment there in coordination with a new US President.

For Europe must do more than repeat the same old pledges and send a few extra troops. Rather, a "grand bargain" is needed whereby Europeans agree to commit more troops and resources in exchange for a shift in American strategy that should place more weight on the search for a political solution to the conflict. This new strategy should be cemented at a new Bonn-type conference bringing together heads of states from the US, UN, EU, and all of Afghanistan's regional partners.¹ But if this is to happen, Europe has to raise its own game.

EUROPE'S ROLE

Since the Taliban's fall in 2001, the EU has been a major donor to Afghanistan. While an initial suggestion for a coordinated EU force within NATO's International Security Assistance Force (ISAF) did not materialise, EU countries have deployed thousands of troops through the US-led Operation Enduring Freedom mission and NATO's ISAF mission.² The EU-27 now account for more than half of the ISAF's total deployment. Member states are in command of 11 Provincial Reconstruction Teams (PRTs) across the country.

EU-Afghan relations are governed by the Joint Declaration between the EU and Afghanistan agreed in 2005. The EU has granted Afghanistan preferential trade terms to assist economic recovery. The European Commission has allocated €610 million to Afghanistan for the 2007-2010 period and has a Special Representative (EUSR) in Kabul. The Commission and member states accounted for nearly a third of total pledges of financial assistance at the 2002 Tokyo and 2004 Berlin donor conferences.

EU funds have paid for the rebuilding of the Kabul to Jalalabad road, improvements to healthcare, rural development, and de-mining programmes. The EU also covered half the cost of the 2004 Presidential elections, 40 per cent of the cost of the 2005 parliamentary elections, and sent election monitors to both. In 2007, the EU launched a European Security and Defence Policy police mission while the Commission established a complementary rule of law programme.

1. Daniel Korski, "Afghanistan: Europe's Forgotten War", *European Council on Foreign Relations*, January 2008.
2. "Europe's Growing Engagement in Afghanistan: What Success for ESDP?", Eva Gross, *CFSP Forum* 5 (4): 11-14. July 2007.

Notwithstanding these valuable contributions, Europe should still be spending more and exerting a greater influence over the policy of the international mission. As the International Crisis Group wrote in 2005: “While Europe is widely trusted by Afghans, few – even at high level – appreciate the full scale of EU commitments.”³ Worse still, the EU's effort is hampered by a lack of political oversight, poor allocation of already insufficient resources, and a lack of both internal and external cooperation.

Most EU governments have failed to act on NATO's request to boost troop levels. One exception is the UK, which has recently pledged to increase its troop numbers in the restive poppy-growing province of Helmand. But European troop contributions continue to fall well short of the 17,000 US troops under ISAF command along with the 8,000 GIs deployed independently. Apart from Dutch soldiers in Uruzgan and a Polish and Romanian presence in Ghazni, Paktika, and Zabul, few other EU nations are willing to operate in the southern and eastern parts of the country where the Taliban increasingly have free reign. Overall, there are at least 60 operational restrictions – known as “caveats” – on European troops, preventing commanders from deploying military assets where they are most needed.

Despite the need for a stronger commitment, the Commission's annual development assistance to Afghanistan will fall in 2008, from €200 million to €150 million. Individual EU member states, which contribute well over twice the amount of funding provided by the Commission, have failed to act as a coherent donor group. Instead, they have adopted divergent policies. Some, like France, have provided little assistance. France's €33 million pledge for reconstruction support is low in the context of its projected total foreign-aid budget of €7.8 billion in 2008.

In areas such as policing, the rule of law and counter-narcotics, EU states have pursued policies entirely independently of each other. The EU Police Mission (EUPOL), launched in June 2007, was meant to address this lack of coordination but its mandate was eventually restricted to police reform, with the Commission funding a separate judicial program. EUPOL started poorly, losing its first commander, and faces serious problems recruiting effective staff. The mission's projected staff complement of 200 is probably ten times smaller than what is required.

As with military-to-population ratios, the international police presence in Afghanistan is below the levels of similar missions. EUPOL's contingent of 200 compares poorly to the 186 police officers the EU has in Bosnia and Herzegovina – down from 500 between 2003 and 2005 – and 1,479 in the UN-run Kosovo mission, a figure set to increase when the EU takes over the mission later in 2008.

3. “Rebuilding The Afghan State: The European Union's Role”, *International Crisis Group's Asia Report* N°107, 30 November 2005.

Coordination, all-important in post-conflict operations, is weak. Chains of command are often unclear. While the EU has integrated its Balkans offices in Macedonia, each EU institution has a separate leader and office in Kabul. Back in Brussels, things are little better. European leaders rarely discuss Afghanistan and senior officials are equally unconcerned: experts from member states meet only twice a year. When Afghanistan does make it onto the agenda – at meetings of the Ministerial Troika or at foreign ministers' dinners after formal Council sessions – the discussion lacks purpose.

In sum, Europeans have failed to define and implement a united strategy for Afghanistan. There has been no substantive debate about how to reconcile divergent national approaches to counter-insurgency and policing, nor any attempt to forge an overarching political approach. Finally, there is a feeling that nobody is in charge. A position of Deputy Director-General with responsibility for Afghanistan has remained vacant in the Council Secretariat, while efforts to replace the EU envoy in Kabul have not begun in earnest.

The EU cannot remake coalition strategy alone. But a united EU can act as a powerful advocate for a better and more coordinated international approach. The US rightly argues that more troops are needed to dominate the terrain, and lambasts European allies for their failure to step up their effort. European countries are equally right to criticise the current military strategy and to fear that without a change, an increase in troop numbers might only lead to greater civilian casualties alienating the local population.

EU countries should help resolve this tension by committing to send more troops, trainers, and civilians to Afghanistan, as well as lifting all remaining "caveats" which hamper their soldiers' effectiveness. This would give EU countries more legitimacy to ask for an overhaul of military strategy. The EU must also reverse the decline in reconstruction funding and spend funds at grass roots level through the Provincial

Reconstruction Teams (PRTs), and in support of provincial governments and the reconciliation effort with the Taliban.

RECOMMENDATIONS

It is vital for the EU to improve its performance in Afghanistan. The following initial steps should be taken:

- The Council should name a new high-profile EU Special Representative (EUSR) to replace the long-serving Francesc Vendrell.
- The new EU Special Representative should be mandated to:

- Integrate the local Commission representation, the EU Heads of Mission, and EUPOL to create a tighter EU set-up, as in the Balkans.

- Broaden the EUPOL mission into a police-and-justice mission and push for a major increase in numbers.

- Make EU aid in to Afghanistan's provinces dependent on the achievement of specific benchmarks set out in "good governance contracts". This will improve the effectiveness of local government.

- Develop proposals for boosting the resources provided by the EU to Provincial Reconstruction Teams.

- Assist democratisation by making funding for the 2009-10 presidential and parliamentary elections conditional on the introduction of an element of list-based proportional representation. This would promote the development of political parties and dilute the influence of local war lords.

- A Wise Men's Committee, should be jointly appointed by the Council and Commission and chaired by a prominent European, to develop a new EU approach to the region, including Afghanistan, Pakistan, and India. Once they have received the report, the EU Presidency should convene a conference focused on the region and consideration should be given to appointing a high-level EU Envoy to Pakistan.

- The EU's Political and Security Committee and NATO's North Atlantic Council should meet quarterly to discuss Afghanistan exclusively.

- The EU Presidency should convene an "Afghan forum" of officials from member states. Political Directors should meet before each foreign ministers' meeting, while junior officials could meet monthly.

- Since it is unlikely that the German, Italian, and Spanish governments can be persuaded to send their troops to the south, the "Afghan forum" should develop a plan for "alternative burden-sharing", detailing how troops in the north could take on more responsibility for the training of the Afghan National Army and Afghan National Police.

COMBINING PRAGMATISM AND VISION – THE FUTURE OF EU ENLARGEMENT

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Enlargement has been an EU success story. At present, there is however much talk that the Union may have reached the limits of its capacity to integrate diversity. Yet there is also a clear understanding that enlargement has not yet been completed. What is lacking, and needs to be included in the current and upcoming enlargements is an optimistic approach, an enthusiasm and a vision regarding the kind of Union an EU 27+ can become. The next troika will have to manage different aspects and expectations of an enlargement process still underway.

PROBLEMS, BOTTLENECKS AND REMAINING CHALLENGES

The EU has not yet politically and institutionally digested the 2004 and 2007 enlargement rounds. Predominant positions oscillate between concern about the EU's future integration path, reticence towards further enlargement and, at best, a cautious optimism about whether the ratification and implementation of the new Treaty of Lisbon will, gradually, make the EU 27 more efficient and workable and thus able to further enlarge. Fears of potential economic and political consequences of EU "imperial overstretch" are combined with increasing introspection and protectionism against perceived and real insecurities. These factors have led to several problems, bottlenecks and challenges.

First, even though faltering support for enlargement is not simply a matter of inefficient or successful communication, the benefits of enlargement continue to be insufficiently communicated to European public opinion. In spite of numerous information campaigns, misinformation and prejudices concerning the accession of new member states remain to be overcome.

Moreover, Euroscepticism has increased as citizens, and even part of the political elite, doubt whether the enlarged Union will adequately tackle current and future political, economic and social challenges. This issue needs to be addressed in the public arena by mainstream political parties in advance of the June 2009 European Parliament elections, in order to avoid leaving the space free to populist and nationalist demagogues on both the left and the right.

Finally, European political elites have settled into a deadlocked public discourse of enlargement fatigue. Lack of high-level political motivation, especially at the national

levels, to re-introduce a positive and forward-looking perspective for the next enlargements is fossilising into an attitude of immobility.

In addition to challenging circumstances within the EU, conditions inside the Union's (potential) candidate countries have not always been encouraging.

The pace of reforms has in fact been inadequate: in most, if not in all, of the current and potential candidate countries, political and economic reforms have not proceeded as far as they should. Alternatively, it may be argued that they have gone as far as they could, and that in practice this has not been sufficient.

Furthermore, instability persists at the EU's borders: the divided positions over Kosovo, the relative isolation of Serbia and the fragile and dysfunctional structure of Bosnia-Herzegovina, in addition to other economic and socio-political legacies of post-communist and post-conflict transitions, continue to associate Southeast Europe with regional instability. Similarly, Turkey's borders with Syria, Iran, and whatever form Iraq eventually develops into, obliges the EU to play a core role (and a more substantial one than at present) in one of the world's most volatile regions, which neighbours Europe. Lukashenko's regime in Belarus, Ukraine's and Georgia's tense relations with Russia, and Moldova's economic under-development mean that the EU's eastern borders are still a region in deep economic transition and political uncertainty.

Finally, high expectations and transition fatigue in neighbouring countries clash with the inability or unwillingness of EU to enlarge further: the goal post of EU accession appears distant for (potential) candidate countries and therefore lacks the catalytic capacity to push reforms forward, in pace and scope. Furthermore, the perception that the accession process may be largely dependent upon factors that are exogenous to each country's objective progress (i.e., other regional, geo-political considerations) risks delegitimising EU conditionality.

To successfully manage the challenges related to a parallel widening and deepening, it is necessary for the EU to proceed in well-measured, incremental steps as regard the Union's next rounds of enlargement. However, with enlargement stalled, the kind of carrots that the EU can offer is limited and the alternatives it is presenting are uninspiring. The EU has still not successfully developed means to encourage reforms in countries where the prospect of membership is either too distant (eastern European countries) or unlikely (southern Mediterranean neighbours).

RECOMMENDATIONS

In light of the above, the following recommendations are put forward:

■ Constructive ambiguity concerning EU boundaries: An attempt to define the borders of the EU for once and for all would be politically unwise. The possibility of joining should in principle remain open to all European countries even if the prospect of EU accession in many cases might still be very distant or even indefinite. For most countries in the geographic vicinity of the Union, the prospect of EU membership provides an important impetus for the initiation or continuation of political, economic and social transformation towards democracy and the market economy. To exclude the long-term perspective of enlarging even beyond the Western Balkans would provoke negative reactions and thus limit the potential to bind neighbouring states closer to the Union. The EU would be less able to impose conditionality and would therefore lose much of its capacity to influence the overall political orientation and the transformation process in its European neighbourhood.

■ Revitalise positive attitudes towards enlargement and prepare a Strategic Enlargement Review (SER): during the French, Czech and Swedish EU Presidencies, the Union should lay the grounds for a strategic review of the enlargement process in 2010. By then, the Lisbon Reform Treaty will (hopefully) be ratified and mostly implemented; the new European Parliament will be elected; the new Commission, the new High Representative of the Union for Foreign Affairs and Security Policy and the newly created more permanent President of the European Council will be in office; and the Reflection Group will have presented its final report. This SER must be bold in reiterating that further enlargement is necessary and beneficial and it must be critical in identifying what needs to be done by the EU to prepare for next enlargement rounds. Public opinion surveys consistently register high expectations regarding a global role for the EU. Thus, the key message to be communicated is that a further enlarged Union can have a more powerful, global role on political, economic, military and environmental matters. In preparation for this SER, the European Parliament and the Commission should in particular:

- intensify efforts to communicate the positive aspects of enlargement and where necessary inform about the potential political and economic costs of non-enlargement;
- strengthen initiatives which inform citizens and specifically target schools, trade unions, trade associations, NGOs, and population groups that are traditionally more Eurosceptic or less informed about Europe (such as religious organizations, ethnic organizations, etc.);
- inform EU citizens about the domestic situation in the states aspiring to join the Union. The keys to success are civil society dialogue, cultural links and youth exchange programmes aiming to overcome stereotypes, ignorance and prejudices.

■ No automatic enlargement and no additional (in-)direct accession offers: given the widespread scepticism towards further enlargement in many EU member states, any enlargement automatism should be avoided and further accession offers, for now, should not be directly or indirectly granted beyond the countries that already have the status of candidate country (Croatia, Turkey and FYROM – Former Yugoslav Republic of Macedonia) or potential candidate country (Albania, Bosnia and Herzegovina, Montenegro and Serbia including Kosovo). Concerning the progress or the initiation of negotiation talks, the EU needs to stick to its promises but at the same time reassure its citizens that the enlargement criteria are strictly met on the part of the candidate countries. Pressure for reforms needs to be maintained, and progress needs to be critically monitored and rewarded. The EU should avoid defining concrete timetables and specific entry dates to avoid a counter-productive impact on the pace of reforms and the motivation to implement the Union's *acquis* in practice. Finally, other neighbouring countries should be discouraged from applying, in order not to further burden the "waiting room." The prospect of applying in due course should nevertheless be kept open.

■ Exploit cooperation potentials: The EU and the candidate or potential candidate countries should aim at the highest possible level of cross-border and intra-regional cooperation – irrespective of the final result of the accession progress. Intense political, economic, social and cultural interaction as well as cooperation on environmental matters can function as strong motivators in the Union and in the (potential) candidate countries during a long and often cumbersome road to EU accession. Closer relationships improve knowledge of each side about the other, increase the understanding of the problems the other side is facing, reduce the level of mutual distrust, and prepare both sides for the moment when new members actually join the Union. And in case the accession process fails – independent of whether the reasons for the failure originate in the EU or in the neighbouring countries – the establishment of the closest possible ties can function as a safety net. Potential fields of cooperation should in particular include:

– the field of *foreign, security and defence policy* and the area of *Justice and Home Affairs* (including in particular visa questions);

– *economic cooperation* based on concrete transnational and interregional projects in areas which are of interest to both sides, particularly energy and infrastructure;

– the strengthening of *cultural and social ties*, which allow not only the elites but also ordinary and especially young citizens to get acquainted with each other; and

– *education* in order to bring the younger generations closer together, around similar values and the sense of belonging to a wider European community (i.e. through increasing student exchange programmes, school twinning projects, expanding the ERASMUS, SOCRATES and LEONARDO programmes, encouraging more trans-national university degrees, etc).

■ Encourage candidate countries to increase their attractiveness: further EU enlargement will not be driven by a historic momentum like the one that motivated the 2004/07 enlargement after the fall of the iron curtain. Compared to past enlargement rounds, the countries now aspiring to join the Union will have to provide even more convincing arguments that their accession is not only in their own but also in the political and economic interest of the EU and its member states. Accession countries are competing with other enlargement projects both individually and as part of a certain region. This increases the pressure on every applicant to demonstrate a high level of preparedness and willingness to join “the club.” Each country aspiring to join the EU will and should be judged on its own merits. The individual success of internal economic, political and social reforms in the (potential) candidate countries will be the most decisive factor for “persuading” the Union and its member states to enlarge further. The better the political progress concerning the establishment of a stable democracy under the rule of law, the more effective the fight against corruption and organized crime, the more guarantees are given for the protection of human rights and minorities and the resolution of intra- or inter-state conflicts, the higher the chances for joining the EU. On the economic side, the establishment of a functioning and competitive market economy in line with the Union’s *acquis*, with high growth rates and strong inflows of direct investment from foreign and especially EU companies will provide compelling arguments against opponents of further enlargement and secure the support of the business community inside the EU and in the (potential) candidate countries.

■ Internal success – the best argument for further EU enlargement: further enlargement requires that the EU successfully does its own homework and this involves:

– *successful ratification and implementation of the Treaty of Lisbon* : this is a prerequisite for further rounds of enlargement as the new primary law has the potential to enhance the Union’s institutional efficiency and functioning as well as its democratic legitimacy. In case of a ratification failure the EU would slip into a political crisis and further introspection, this time probably worse than the constitutional crisis following the double French and Dutch “no” to the Constitutional Treaty in 2005;

– *modernization of the EU budget*: the Union’s current budgetary structure does not meet the requirements of an EU 27+. To prepare the EU for further rounds of enlargement the member states would have to agree to readjust the budgetary priorities. More funds need to be shifted into more dynamic areas such as innovation policy, internal and external security policy, environment protection and energy policy. One should also reconsider whether the overall size of the EU budget will be sufficient to meet the needs of an EU of 27 and more members;

– *definition of a new narrative based on a new grand project*: the EU has in recent times failed to provide its citizens with a new sense of direction in order to overcome public scepticism concerning the future of European integration. As long as this remains the case, the

necessity of a further enlargement is difficult to convey. Europe needs a convincing and comprehensible answer to a simple question: What do we need the EU for in the future – beyond the valuable achievements of the past 50 years? However, it will not be enough to proclaim this new *raison d'être* in the form of a solemn declaration replete with group photo. Citizens and elites will only find a new interest in the European construction when the EU is able to define a new grand project from which it can derive legitimacy. European policymaking has always been particularly dynamic and successful whenever it set its sights on a large-scale and ambitious goal. The most impressive examples of this have been the single market project, "Europe '92", and the reunification of the continent. The EU and its member states have yet to define an equally ambitious yet realistic and concrete grand project for today's era, beyond a "Europe of small projects". Current enthusiasm and support for the EU's efforts to tackle climate change and to be an innovative, front-runner on environmental issues testifies that Europeans want and expect the EU to "think big" or "think bigger." In short, attitude is key both for the future of the European Union and for the future of EU enlargement.

THE FUTURE OF THE EU ENLARGEMENT – CHALLENGES, PITFALLS AND OPPORTUNITIES

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ENLARGEMENT PERSPECTIVES – NOT AS PALE AS IT MIGHT SEEM

The potential enlargement of the European Union seems more likely if the Treaty of Lisbon comes into force. Many political figures in Europe argue that constitutional and institutional issues must be resolved before any further discussions on enlargement may be held. Concerns continue to be raised. First, the consolidation of the post-enlargement EU, i.e. the “digestion” of the 2004 and 2007 enlargements. Second, the state of public opinion in Europe, particularly among older member states of the EU. However, both concerns are somewhat misfounded. Many studies published since 2004 show that the impact of enlargement on the EU economy, the exercise of EU policies and even the political development of the EU has been rather minimal, if not in fact positive.

A more sensitive issue is public opinion. It would seem the EU population as a whole is not against enlargement; in fact, support is on the rise (49% in favour in Eurobarometer 67 compared to 46% in EB 66; 39% opposed in EB 67 compared to 42% in EB 66). Moreover, more detailed polls dealing with enlargement (such as Eurobarometer 255 of July 2006) suggest that those EU citizens who are well informed about enlargement support it. Therefore, it would seem the main issue is not the low level of support but the lack of information and absence of effective awareness building campaigns.

PROGRESS ON ENLARGEMENT – STALEMATE AND A LACK OF POSITIVE GROUP DYNAMICS

The current state of the enlargement agenda is unsatisfactory. The Slovene Presidency, which has placed the issue of enlargement (particularly as concerns the Western Balkans) high on the agenda. However; Slovenia is blocking progress on the negotiations regarding Croatia as a result of unsettled issues of borders and territorial waters. Similarly, Kosovo’s recent declaration of independence has consumed much of the presidency’s energy – which might otherwise have been devoted to a more strategic approach towards the Western Balkans as a whole. Negotiations with Turkey remain frozen on eight chapters relating to the internal market despite arguments from the Commission that negotiations must proceed, with two additional negotiating chapters likely to open soon.

Compared to previous enlargements, the one significant difference of the post-2007 enlargement process is the absence of group dynamics and positive peer pressure. Croatia is currently the only candidate state with any real prospect of EU entry; meanwhile the accession of Turkey is being de-coupled from the Western Balkans as a “special case”.

All countries involved in the current enlargement process are confronting different obstacles. In Turkey the main difficulty is the apparent lack of some political freedoms. Some countries of Western Balkans still have to deal with state- and identity-building – and with economic problems far worse than was the case in previous accessions. This diminishes the healthy competition among the countries which is one of the driving forces behind the reforms required to meet the accession criteria.

Looking to the future, the upcoming Trio Presidencies of France, the Czech Republic and Sweden may further stall progress. Two of the countries – namely the Czech Republic and Sweden – are strong supporters of enlargement, backed up with political support and public opinion. By contrast, France is among those EU countries with the highest levels of scepticism, both at the political level as well as among its citizens. This combination could complicate the exercise of the team presidency with respect to enlargement.

DISMANTLING THE CONNECTION BETWEEN THE ENLARGEMENT AND OTHER INITIATIVES

There are two recent developments regarding enlargement which are of particular concern, both initiated by the French President Nicolas Sarkozy. Sarkozy has floated the idea of establishing a “group of wise men” to guide the future direction of the EU and draw the geographical limits of how far the EU can enlarge and re-opening the issue of the status of Turkey. Scepticism from other EU member states towards this initiative has been seen it transform from a “group of wise men” to a “high level reflection group” with a restricted mandate.

The final mandate for the group failed to contain any reference to the geographical limits of Europe. Diverging opinions on this point is likely to cause conflict among the Trio Presidencies – with the Czechs and the Swedes likely to be against the group discussing borders. The group will publish its recommendations, but only in 2010 after the term of the team presidency is over. Controversy on this point may therefore be avoided in the short term.

The other initiative relates to Sarkozy’s plans to establish a Mediterranean Union; a measure which has been coldly received in many EU capitals and particularly in Berlin. As the Czech Republic and Sweden are also not part of this “Club Med”, their support for such an initiative is likely to be limited. Perhaps a more serious question arises over the connection between the Mediterranean Union and its cohesion with existing EU policies.

As such the idea has been poorly received by the Commission, which argues that it could hamper existing initiatives such as the Barcelona process. In relation to EU enlargement, there is fear that the idea has been devised to keep Turkey outside the EU gates and to offer it a different kind of partnership in a different framework.

It is important that the team presidency draws a strict line between the initiatives such as the Mediterranean Union or the high level reflection group and the existing framework of the EU enlargement. These initiatives should in no way undermine the enlargement process and the existing commitments of the EU towards candidate countries.

NO FURTHER PROMISES AND NO FURTHER CONDITIONS

In the mid-term, it is not realistic to imagine enlargement will extend to any country beyond those already in play. Both Turkey and the Western Balkans pose enormous challenges to the EU. While no EU country disputes the long-term goal of EU integration for the Western Balkans countries, the membership of Turkey is still explicitly rejected by some EU leaders. In any case, the success or failure of the EU to integrate both of these entities will largely decide the future of any further EU enlargement.

The EU needs to remain committed to the promises it has already made if it wants to remain credible in more volatile regions. It should not create any additional conditions beyond those that were set for previous phases of enlargement, and it must keep monitoring and evaluating them thoroughly.

TURKEY – NEGOTIATIONS STALLING ON THE TOPIC OF CYPRUS

Turkey has emerged with a strong government from its 2007 elections, and although the EU was somewhat concerned by the overwhelming victory of the AKP, events so far show Turkey is maintaining the pace of reform and fulfilling its accession criteria (although there have been suggestions that Prime Minister Erdogan has lost some of his reform zeal).

However, the key challenges for Turkey lie elsewhere. First, it needs negotiations over the crucial chapters relating to economic integration to be re-launched. This could be assisted by the election of Cyprus' pro-unification candidate Christophias. The attention of the presidency should be focused on re-launching the reunification plan, with a stronger engagement of the EU now that Cyprus is a member; such attention could facilitate the re-launch of EU-Turkey negotiations. Secondly, the issue that needs more serious attention – primarily from the Turkish government – is the mobilization of Turkish support for EU membership, which has declined drastically over the past few years. But a general debate on the pitfalls and opportunities of Turkish membership should be also re-launched in

the EU. This should engage a wide range of participants, including European institutions, member states' institutions and civil society.

CROATIA – SWIFT CONCLUSION OF NEGOTIATIONS A PRIORITY

Of all the Western Balkan countries, Croatia's ascension should prove the easiest. However, while it was anticipated that that membership discussions would be speeded up by the Slovene Presidency - this does not seem to have been the case so far. France is not likely to push strongly for progress, and so the major breakthrough could come under the Czech Presidency (strongly supported by Germany along with other Central European countries).

The original hope to conclude the talks in the first half of 2009 is slowly fading. The settlement of bilateral disputes between Croatia and Slovenia now seems to be the main obstacle to progress. Strong peer pressure on the part of other member states should be exerted on Slovenia so as to settle this issue and make progress on negotiations, as most of the indicators seem to be positive (Commission report, economic growth, compliance with the Copenhagen criteria). The conclusion of negotiations under the team presidency would be a genuine success; it would send a positive signal to the whole region, act as a catalyst to help the other countries to speed up their own preparations, and show that the process of enlargement is still alive.

Reaching a consensus on the opening of membership talks with Macedonia (with possible conditionality set on the co-operation of the political figures as envisaged in the Constitution) would be yet another visible success of the team presidency. Likewise, granting candidate status to Montenegro seems to be realistic in the short term. In both these cases, a close co-operation between the team presidency and the Commission will be necessary in terms of preparing the 2008 regular report.

THE TROUBLESOME TRIO

This leaves us with the three Western Balkan countries whose EU prospects are most shaky. The EU has put too much effort into "compensating" Serbia for its loss of Kosovo, showing willingness to sign an interim political agreement despite Serbia's failure to cooperate fully with ICTY. Such cooperation must remain the main objective of relations between Serbia and the EU, as was the case with Croatia. Using double standards towards a region which has still not come to terms with the legacy of its 1990s wars would be the most dangerous strategy the EU could pursue.

As for Kosovo, regardless of whether its independence is eventually recognized by all EU member states, the EU cannot renounce its responsibility for the future of this young

state. By agreeing to launch one of the biggest ever EU civilian missions – EULEX – the EU member states have already endorsed this commitment. The key challenge for the team presidency in terms of enhancing Kosovo's EU perspective will be to ensure that the current framework of EU-Kosovo relations (the so-called "SAP tracking mechanism") turns into a standard Stabilisation and Association Process framework, as applied to the other Western Balkan countries. The EU should quickly negotiate a visa facilitation agreement with Kosovo. The team presidency also has to decide rapidly how to proceed if some member states insist on not recognizing Kosovo, an eventuality which could derail the aforesaid process (i.e., conclusion of the two agreements).

Bosnia and Herzegovina arguably represents the most difficult case in the region. The Dayton framework is clearly outdated and is hampering the country's progress towards the EU: it enables the constitutive Bosnian entities to block measures required by the EU (such as police or administration reforms). Although re-opening the question of the Dayton framework is a sensitive issue, the status quo is not sustainable in the long term. The team presidency should open this issue both within the EU and in relation to the Bosnian authorities, and support the current UN/EU High Representative's moves in this area. It should press for constitutional reforms with the long-term goal of transforming BiH from its current state, based on ethnicities and nationalisms, into a modern country founded on civic principles.

An important short-term goal of the EU vis-à-vis the whole region should be an enhanced discussion on the visa-free regime. The Commission's initiative to launch the visa-free dialogue with some countries of the Western Balkans (Serbia, Montenegro and Macedonia) is a step in the right direction, but a more coherent approach is desirable. A systematic approach should be devised whereby the EU agrees on a clear set of rules for the visa-free regime for all the Western Balkan countries plus Turkey, similar to the conditions set by the US for its visa waiver programme. This would be consistent with the equal treatment of candidate states, the main principle of EU relations with these countries.

Key recommendations for the Team Presidency:

- Keep enlargement high on the EU agenda. Initiatives such as the Mediterranean Union or the establishment of the High Level Reflection Group should not serve as a substitute for enlargement policy and commitments already accepted.
- Promote the achievement of the 2004 and 2007 enlargements. Europe has experienced economic growth and increased jobs partly thanks to enlargement. European public opinion is not as negative as it is portrayed, but enlargement must be communicated in a better way.

■ Progress on negotiations with Turkey is crucial. Consistent pressure on the AKP government is necessary to ensure ongoing implementation of reforms, particularly in the area of human and minority rights and the rule of law. On the other hand, the EU should make the most of the positive momentum after the elections in Cyprus to re-launch talks on reunification and take an active involvement in the process. This would lead eventually to the full resumption of negotiations on suspended chapters.

■ Make efforts to conclude the accession negotiations with Croatia during its term, sending a positive signal to other Western Balkan countries and giving them a strong incentive to speed up their preparations.

■ Ensure that full conditionality remains the principal imperative for enlargement and that the candidate countries will be measured by the same standards. Full co-operation of Serbia with ICTY should remain the main pre-condition for signing the Stabilisation and Association Agreement.

■ Accept the responsibility for the successful outcome of the EULEX mission in Kosovo, and work on building the consensus over how to keep Kosovo's EU perspective alive. This might include granting Kosovo the standard enlargement framework applied to other countries in the region.

■ Take steps towards opening the issue of constitutional reforms in Bosnia and Herzegovina that would strengthen the civic principle and limit the impact of ethnicity. At the same time, it should give full support to OHR/EU Special Representative to break the deadlock in policymaking and to fight possible separatist tendencies in Republika Srpska.

■ Support the Commission's efforts to launch the talks on a visa-free regime with Western Balkan countries. However, it should push for a clear set of criteria that countries need to fulfil (like the Visa Waiver Programme in the United States), which could eventually apply to all countries with which the EU maintains a visa-free regime. It should dismiss the selective approach applied only to certain countries for mainly political reasons.

WILL THE PROMISE OF “DEEP” INTEGRATION SATISFY OUR NEIGHBOURS?

Alan Mayhew, Economic Policy Adviser, DemosEuropa

There have been four further enlargements of the European Union since the first in 1973. Each of these has changed the nature and policies of the Union in one way or another. It is however the most recent enlargement to the countries of Central and Eastern Europe which has forced a fundamental reappraisal by the member states of the character, organisation, procedures and policies of the Union.

The concept of “neighbourhood” changed radically with the end of Communism in Eastern Europe and the growing interest of many member states in the Mediterranean region. In the mid-1990s, European Union policy, which offers ultimate accession in return for neighbouring states adopting European Union values and regulation, led to the fifth enlargement to the countries of Central and Eastern Europe and to the “promise” of enlargement being made to the countries of the Western Balkans and Turkey.

OBSTACLES TO FURTHER ENLARGEMENT

The required changes to EU policies and, above all, the reform of the EU’s institutions, considered vital for the fifth enlargement, were made through the Nice Treaty and now through the new Treaty of Lisbon. Even on the basis of the existing treaties it appears that decision-making in the Union is not less efficient with 27 member states than it was with 15. However, the enlargement to the member states of central and eastern Europe has changed in an important way the proceedings of the Council, the Parliament and the Commission. Proceedings in the institutions have not ground to a halt, but the institutions themselves have become more efficient, thus allowing the Union at 27 to operate effectively. An important question is whether a similar increase in efficiency could possibly cope with a new enlargement of the Union, or whether the Union’s institutions would need further substantial reform.

Opinion polls suggest that the Union’s citizens have become somewhat disillusioned with enlargement and a large minority is opposed to future accessions. It is difficult to say whether this change in opinion has been produced by disappointment in the most recent enlargement, by continuing high levels of unemployment or by a general uncertainty about the impacts of globalisation. It is however a factor which politicians have to take into consideration.

On the other hand, we have seen that offering an external anchor, such as accession, has had a stabilising impact on the Western Balkans, which otherwise might have erupted into further violence. The result if the European Union were to renege on its pledge to this region cannot be predicted. But today, countries as far afield as Ukraine and Georgia are also looking to European integration as a guarantee of stability and the modernisation of their economies. And a moderate and stable Turkey would be of enormous benefit to the Union.

The member states of the European Union are split over the question of further enlargement. Those states strongly in favour argue that stabilising the neighbourhood through the offer of full accession to the European Union would be a far more important gain than the possible loss through institutional complexity. Those that oppose further enlargement argue, apart from growing public scepticism, that it would render the Union’s institutions far less efficient and would be a further roadblock to deeper Union.

ENP AS A FORM OF INTEGRATION WITHOUT ACCESSION: OPPORTUNITIES AND LIMITS

This explains the renewed interest in the old question faced by President Delors in the early 1990s of whether it is possible to offer neighbouring countries an integration with the Union which excludes accession and participation in the EU institutions.

The argument that the European Economic Area Agreement (EEA), which is the deepest form of integration without accession, failed to satisfy the EFTA countries, and therefore demonstrates that there is no solution to this question, is perhaps rather facile. The countries of eastern and south-eastern Europe, as well as Turkey, are far poorer and far less prepared for membership than were the EFTA countries.

European Neighbourhood Policy (ENP) has the aim of offering third countries in the EU’s neighbourhood a degree of integration with the Union, which will serve the objective of stability, but without the offer of accession. Indeed most people appear to agree that ENP was designed specifically to avoid neighbouring countries applying for membership. It is of course a complication that ENP includes both countries in North Africa and the Middle East which have no prospect of accession at present, and those in eastern Europe to which article 49 of the EU treaty applies.

ENP’s essential offering is increased stability through close political cooperation with the Union together with a share in the internal market, in return for the adoption of the European Union’s regulation and regulatory systems and of its fundamental values.

For countries in which deep reform of their political and, especially, their economic systems is still necessary, this offer should be attractive. Aligning their regulatory systems

with that of the European Union may create the framework for a deep modernisation of their economies. The modest assistance given through the European Neighbourhood Policy Instrument (ENPI) will also help to finance some of the regulatory changes which are necessary.

The “deep integration” envisaged in the new “free trade area plus agreements” (FTA+), the first of which is being offered to Ukraine, reflects the fact that after decades of tariff reduction and trade liberalisation through the WTO, traditional free trade agreements do not offer very great benefits to either side. Far more important than the reduction or elimination of already low tariffs is the regulatory alignment in trade-related policy areas such as competition policy, public procurement, intellectual property and establishment, as well as the narrow internal-market rules concerning conformity assessment.

The question is whether the promise of such deep integration is a sufficient external anchor for domestic reform policy.

Deep integration requires very important reforms to the way the EU’s neighbouring countries run their economies and societies. All of these states have well-established interest groups which will oppose certain parts of the required reforms. In order to be successful they need governments which are fully committed to European integration and which are able to persuade their voters that the benefits of European integration far outweigh the costs involved. In the new member states of Central and Eastern Europe, veto players in the pre-accession period could always be overcome by the argument that the advantages of eventual accession to the Union were more important to society than the limited losses that particular groups in society might suffer. In the absence of an accession perspective, other arguments will have to be deployed.

The countries covered by the Union’s ENP are a very diverse group. The essence of any relationship is likely to be expressed in the bilateral agreements with the European Union. In some of the countries it is doubtful whether the fundamental values of the Union are shared, and perhaps whether they ever can be. In others the balance of political forces cannot guarantee in the longer term a pro-integration policy, when the benefits of integration are in doubt. In any case the adoption of EU values and regulation will be a long and complex process.

It is probable that the Union must offer additional incentives to ENP countries if they are to align their regulation to that of the European Union. For ENP countries in North Africa and the Middle East, where the legal basis for accession at present does not exist in the treaties, these incentives are likely to be in the area of additional financial assistance and progress in the areas of migration and justice and home affairs.

For the countries of Eastern Europe which do have a perspective of accession under the treaties, it will be necessary either to emphasise that accession is possible when the

conditions are met or alternatively to design a more concrete institutional alternative to accession. Several member states have introduced the concept of a privileged partnership but no one has been able to explain exactly what that involves.

The ultimate problem of deep integration without accession is that it involves regulation without representation. ENP partners will be expected to implement new internal market regulation without realistically being able to influence its content. The situation of Norway in the EEA is a good example of the problems which this can cause. In states more volatile than Norway, the problems can be well imagined.

The advantages to the EU of stability in its immediate neighbourhood are immense. The prospect of a neighbourhood in which the Union's values prevail and which operates on the basis of EU regulation is very attractive. The costs of opening an accession perspective, once the conditions are met, to the ENP countries in Eastern Europe lie predominantly in the area of institutional and policy reform in the Union.

There is no point in those in favour of further enlargement disputing that it would require changes in both the institutions and the policies of the Union. Yet these will be necessary even to accommodate the countries in the Western Balkans and Turkey when they accede. There is no reason to assume that the institutions and policies which are contained in the Treaty of Lisbon will remain forever immutable, even though we know after the recent constitutional debate how difficult these changes can be. Quite major changes in the institutions will certainly be necessary when the number of member states rises towards the mid-30s and it must also be assumed that the enhanced-cooperation articles of the Treaty of Lisbon will be used on several occasions in the future.

Peace, stability and a degree of prosperity in the EU and its neighbourhood would however be worth the inconvenience of decades of change in its institutions and policies.

Policy recommendations:

■ ENP should not be sold as a policy alternative to accession to the Union. It is not and it cannot render Article 49 of the Treaty redundant.

■ ENP will continue to exist as a framework because it balances the interests of the EU's southern members with those of its northern and eastern members. But real policy needs to be invested in the bilateral relations with each neighbouring country.

■ “Deep integration” requires our neighbours to carry out costly reforms over many years. Political systems are often not sufficiently stable to ensure that a long-term reform strategy can be implemented consistently. The EU will need to put real meaning into “privileged partnership” promises through institutional cooperation, greater political

dialogue, intensifying people-to-people contacts through educational partnerships and other means, and increased financial assistance. For eastern neighbours, covered by article 49 of the treaty, this should not be considered as an alternative to accession.

THINK TANKS AND AUTHORS

FONDATION POUR L'INNOVATION POLITIQUE, PARIS (TGAE'S CO-ORGANIZER)

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The Foundation publishes the work of its researchers and those of its external collaborators, hosts regular round table discussions, seminars and conferences and publishes a triannual review called "2050".

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NOTRE EUROPE, PARIS (TGAE'S CO-ORGANIZER)

Notre Europe (www.notre-europe.eu) is an European independent think tank dedicated to promoting closer European unity. Under Jacques Delors' leadership, the association's aim since 1996 has been to "think a united Europe."

This involves participating in current debates from a vantage point of informed positions based upon thorough policy analysis and relevant policy proposals that are deigned to help Europeans achieve closer unity. It also entails fostering the active involvement of citizens and civil society in the process of European integration and in the emergence of a European public space. Its analyses and policy proposals focus upon four themes: visions of Europe, European democracy in action Cooperation, competition and solidarity Europe and world governance

Successively headed by Jacques Delors (1996-2004), Pascal Lamy (2004-2005), and Tommaso Padoa-Schioppa (since November 2005), Notre Europe is committed to maintaining strict

independence of thought as well as work, in keeping with the spirit of promoting the public good. For this reason, all of its work is available free of charge and in French and English through its Internet website.

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BRUEGEL, BRUSSELS

Bruegel (www.bruegel.org) is a European think tank devoted to international economics. It was created in Brussels in early 2005 with the intention of bringing a new voice into Europe's economic policy discussions.

Its governance and funding model makes Bruegel unique, being the only think tank partly funded by EU member states. It is supported by 16 European governments, as well as a number of leading private corporations.

Bruegel does not represent any particular policy doctrine. It aims to contribute to economic policymaking in Europe through open, fact-based and policy-relevant research, analysis and discussion.

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CEPS, BRUSSELS

Founded in Brussels in 1983, the Centre for European Policy Studies (www.ceps.be) is among the most experienced and authoritative think tanks operating in the European Union today. CEPS serves as a leading forum for debate on EU affairs, but its most distinguishing feature lies in its strong in-house research capacity, complemented by an extensive network of partner institutes throughout the world.

CEPS' funding is obtained from a variety of sources, including membership fees, project research, foundation grants, conferences fees, publication sales and an annual grant from the European Commission.

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CER, LONDON

The Centre for European Reform (www.cer.org.uk) is a think tank devoted to improving the quality of the debate on the European Union. It is a forum for people with ideas from Britain and across the continent to discuss the many political, economic and social challenges facing Europe. It seeks to work with similar bodies in other European countries, North America and elsewhere in the world. The CER is pro-European but not uncritical. It regards European integration as largely beneficial but recognises that in many respects the Union does not work well. The CER therefore aims to promote new ideas for reforming the European Union.

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DEMOSEUROPA, WARSAW

DemosEuropa – Centre for European Strategy (www.demoseuropa.eu) is an international, non-partisan, policy-oriented research institution which aims to provide answers to the challenges facing the European Union, its Member States and the citizens. It is a forum for ideas about the political, social and economic dimension of European integration and international relations. DemosEuropa – Centre for European Strategy has four programmes which have to do with the political aspects of European integration, economic reform in the EU, sustainability and the EU's role in the world. The think-tank publishes policy papers and reports formulated on the basis of interactive discussions, conferences and seminars.

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DIIS, COPENHAGEN

The Danish Institute for International Studies (DIIS, www.diis.dk) is an independent research institution engaged in research in international affairs. The institute draws up reports and analyses and follows developments in international affairs continuously in order to assess the security and foreign policy situation of Denmark.

DIIS also communicates research findings, analyses and knowledge and performs functions concerning documentation, information and library services. Furthermore, DIIS contributes to the education of researchers, supports the development of research capacity in developing countries and establishes contacts between Danish and international research environments.

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ECFR, LONDON-MADRID-BERLIN-PARIS

The European Council on Foreign Relations (www.ecfr.eu) was launched in October 2007 to promote a more integrated European foreign policy in support of shared European interests and values. With its unique structure, ECFR brings a genuinely pan-European perspective on Europe's role in the world.

ECFR was founded by a council whose members include serving and former ministers and parliamentarians, business leaders, distinguished academics, journalists and public intellectuals. ECFR's pan-European work through advocacy, the mass media and campaigns make the necessary connections between innovative thinking, policy-making and civic action.

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ELIAMEP, ATHENS

Established in 1988, the Hellenic Foundation for European and Foreign Policy (www.eliamep.gr) is an independent, non-profit and policy-oriented research and training institute situated in Athens, Greece. Eliamep's mission is to provide a forum for public and political debate on issues of European integration and international relations and to conduct scientific research that supports policy makers in making informed decisions. Eliamep provides decision-makers, both in the public and private sectors in Greece, Europe and beyond, with authoritative and independent information, analysis and proposals for action.

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EPC, BRUSSELS

The European Policy Centre (www.epc.eu) is an independent, not-for-profit think tank, committed to making European integration work. The EPC works at the "cutting edge" of European and global policy-making providing its members and the wider public with rapid, high-quality information and analysis on the EU and global policy agenda. In line with its multi-constituency approach, members of the EPC comprise companies, professional and business federations, trade unions, diplomatic missions, regional and local bodies, as well as NGOs representing a broad range of civil society interests, foundations, international and religious organisations.

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Europeum Institute for European Policy (www.europeum.org) is a non-profit, non-partisan and independent institute. It focuses on the issues of European integration and its impact on the transformation of political, economic and legal milieu in the Czech Republic. Europeum strives to contribute to a long-lasting development of democracy, security, stability, freedom and solidarity across Europe. Europeum formulates opinions and offers alternatives to internal reforms in the Czech Republic with a view of ensuring her full-fledged membership and respected position in the European Union. Its mission statement is: "Czech visions for Europe, European visions for the Czechs".

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SIEPS, STOCKHOLM

The Swedish Institute for European Policy Studies (www.sieps.se) conducts and promotes research on European policy and policy-making. SIEPS acts as a link between the academic world and policy-makers at various levels. By publishing reports and arranging seminars and conferences, SIEPS aims to deepen the understanding of the challenges facing Europe.

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SWP, BERLIN

The Stiftung Wissenschaft und Politik – German Institute for International and Security Affairs – (www.swp-berlin.org) is an independent scientific establishment that conducts practically oriented research on the basis of which it then advises the Bundestag (the

German parliament) and the federal government on foreign and security policy issues. The analyses and publications produced by SWP researchers and their participation in national and international debates on key issues help to shape opinion in their respective domains.

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